

The power to pardon in late medieval and early modern Europe: New perspectives in the history of crime and criminal justice

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Abstract: Over the past 30 years, few sources have been the subject of more scholarly attention than medieval and early modern pardon letters. These charters, issued by the royal or princely chancery in response to a petition addressed to the monarch and his council, were the strongest manifestation of the sovereign's right to remit crimes in many European polities, including France, England, the Low Countries, Castile, and Portugal. Following the paradigmatic interpretation of ordinary violence as the expression of well-integrated social behaviours, historians of crime and criminal justice have found in petitions and pardon letters records of powerful narratives describing episodes of violence in the population's everyday life. Yet scholars have also debated the reliability of these stories, as they were obviously designed to support the petitioners' claim for pardon. Another major historiographical controversy concerns the articulation between the power to pardon and the criminal policies of the monarchs. While some historians considered the granting of pardon letters as the product of a weak or corrupted justice system that preferred to remit crimes in exchange for money rather prosecuting the perpetrators, others argued that the rise of the power to pardon followed the process of early modern State-building and served to temper criminal prosecutions and assert the sovereign's right over the life and death of his subjects. This essay introduces the reader to the historiography of pardon letters and shows its connections with the recent developments in the history of crime and criminal justice in late medieval and early modern Europe.

Keywords: pardon letter; crime; justice; methodology; petition; violence; state-building.

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1. Introduction

“Almost everything has already been written about this kind of source,” state the editors of a recent edition of the remission letters granted by the duke of Lorraine René II between 1473 and 1508 (Pégeot, Derniame, & Hénin, 2013, p. 11). One may indeed acknowledge that, over the last 30 years, few sources have been the subject of more scholarly attention than medieval and early modern pardon letters.¹ Nowadays, most Western countries have in their judicial systems several legal mechanisms allowing to remit or mitigate the punishments of convicted criminals. The granting of a pardon or amnesty by the head of state is often one of those, but this measure of clemency is highly regulated by law and government administration, and usually concerns crimes of limited gravity or committed under specific circumstances (Erler; 2007; Ruiz Fabri, Della Morte, Lambert Abdelgawad, & Martin-Chenut, 2007; Novak, 2016). In late medieval and early modern Europe, many rulers in search of sovereignty developed their own power to remit crimes committed by their subjects, which generally consisted in the issuance of a charter of pardon. Yet, unlike today, the granting of these pardons was not an exceptional act. It was part of the day-to-day government and, as the product of the arbitrary judgement of the monarchs, it had almost no limits.

The medieval and early modern system of pardoning has in fact a long historical background. It originates from the late Roman republic (Duparc, 1942; Foviaux, 1970; Bauman, 1996; Robinson, 1999, 2001; Dowling, 2006; Gamauf, 2013) and expanded in Western Europe during the high Middle Ages (Hurnard, 1969, pp. 1–30; Koziol, 1992, 2003). This system moreover continued until the end of the early modern period, before being profoundly transformed, abolished, re-established, and modified by the political and judicial reforms from the end of the 18th to the middle of the 20th century (Stronati, 2009; Novak, 2016, pp. 17–44). The earliest surviving pardon letters in chancery records date only from the 13th or the 14th century, when lay rulers started to imitate the bureaucracy of the Papal monarchy – namely, the Apostolic Penitentiary in charge of issuing letters of absolution from the Pope (Salonen, 2001; Lusset, 2017; Erdélyi, 2018; Fossier, 2018). Whether it was called a *lettre de rémission* in France or in the Low Countries, a *carta pardonacionis* in England, or a *carta de perdão* in Portugal, etc., a charter of pardon took the form of a letter patent delivered by a chancery, containing a description of the crime and the legal formulas of pardon and suspension of

¹ In addition to the present article, the reader may consult the historiographical notes by Inge Van Bamis (2014) and Flórez (2017).

penalties for the recipient. The beneficiary had to purchase his letter to cover the chancery fees, and sometimes he also had to pay an additional fine to the royal or princely treasure.² Most pardons were granted following a petition submitted by the future recipient to the monarch and his council, in which he narrated the circumstances of the crime he committed and the reasons why he deserved to be pardoned.³

Scholars have found in the narrative contents of pardon letters and petitions a formidable source of information for the history of violence and social conflict in premodern societies, giving access to the lives and “voices” (Würgler, 2002) of ordinary people who did not produce any other transcript, which explains the keen scholarly interest in these documents. Research includes works from various disciplines and historiographical trends, from legal history to political, social and cultural history, and even microhistory, but some of the major contributions came from what is conventionally called the “history of crime and criminal justice” (Rousseaux, 1997, 2006, 2017; Lawrence, 2016). This new subdiscipline that emerged in the last decades of the 20th century did not have a single theoretical basis, since it brought together scholars from various branches of history, all sharing a common interest for the study of criminality and its regulation. Early criminal justice historians were mainly characterized by their tendency to combine legal, economic, social, political, anthropological and social approaches in the study of judicial records, including pardon letters. The purpose of this essay is therefore to introduce the reader to some of the debates surrounding the historiography of pardon letters and more generally show that the multiplication of studies of these documents followed the general developments in the history of crime and criminal justice.

2. A brief historiographical survey

The scholarly enthusiasm for pardon letters is a relatively recent phenomenon. Until the second half of the 20th century, these documents had been largely neglected (if not depreciated) by historiography, because they were considered as the “irrecusable witness of the barbaric mores of the Middle Ages – an epoch when quarrels where almost always bloody” (Boutaric, 1861, p. 17). They were the product of a corrupted justice system that allowed criminals to escape

² On the cost of pardon letters, see Carroll, 2005; Hoareau, 2005.

³ In the case of the *lettres de rémission* in France and the Low Countries, the petition was copied in the preamble of the charter, as a justification for the monarch’s decision. This preamble was generally absent or abbreviated in the pardon letters from other polities, but original petitions have occasionally been recorded in the archives of some administrations, like the Apostolic Penitentiary (Zutshi, 2003), the English Chancery at Westminster (Dodd, 2007; Lacey, 2009, pp. 26–38), or even the Privy Council of the Habsburg Low Countries (Vrolijk, 2004, pp. 303–336).

punishment if they were rich enough to purchase a pardon. During several generations of historians, most research based on pardon letters used these documents as a collection of anecdotes on the folklore and popular mores of the late Middle Ages (Dehaisnes, 1876; Vaultier, 1965). In addition to folklorists, legal historians were certainly the first scholars to develop an interest in the history of the power to pardon from its Roman origins to modern applications. However, the very theoretical syntheses they produced were mainly based on legislation and had little concern for the content of the charters of pardon themselves (Legoux, 1865; Duparc, 1942; Foviaux, 1970). In a pioneering work, French historian Charles Petit-Dutaillis (1908) combined the approaches of folklorists and legal historians by examining the role of vengeance and blood feud in popular mores as described in pardon letters and comparing it with the public regulation of violence in the Low Countries. Yet this study remained for a long time the only attempt to articulate the narrative content of pardon letters within the legal and judicial framework of the late medieval period.

It was only at the end of the 1960s when pardon letters gradually became the object of a growing interest among scholars. Legal historians Naomi Hurnard (1969) and María Inmaculada Rodríguez Flores (1971) offered the first comprehensive studies on the process of granting pardons in medieval England and Castile, examining every step of the pardoning procedure and how it operated within the broader legal system of these two polities. In the context of a new examination of sources on the daily lives of ordinary people, initially stimulated by the rise of social history and microhistory, criminal records appeared as a new privileged material, which ultimately led to the emergence of the history of crimes and criminal justice in the mid-1970s. This movement therefore engendered a series of research exploiting pardon letters (Bellamy, 1973; Pineau, 1974; Given, 1977; Hanawalt, 1979; Bourin & Chevalier, 1981; Charbonnier, 1982; *La faute, la répression et le pardon*, 1984). It culminated with the publication of three seminal monographs exploring in detail the content of pardon letters. In her study of the remission letters granted by King Francis I, micro-historian Natalie Zemon Davis (1987) analysed the rhetorical strategies adopted by the petitioners to narrate their crimes. A couple of years later, two criminal justice historians, Robert Muchembled (1989, 1992) and Claude Gauvard (1991), exploited remission letters to expose the social mechanisms regulating the use of violence in medieval and early modern France, and they also showed how the expansion of royal justice became an essential element for the construction of the State. The success of Davis', Muchembled's, and Gauvard's books had a lasting impact on the field of

history of crimes and criminal justice, as testified by the great number of subsequent studies referring to their works (Duarte, 1999; Kesselring, 2003; Chaulet, 2008; Lacey, 2009; Abreu-Ferreira, 2015; Verreycken, 2014; Arnade & Prevenier, 2015; Lusset, 2017; Erdélyi, 2018), including those produced by the students of Muchembled and Gauvard (Paresys, 1999; Toureille, 2006; Claustre, Mattéoni, & Offenstadt, 2010; Foronda, Barralis, & Sère, 2010; Prétou, 2010; Destemberg, Potin, & Rosenblieh, 2015; Roussel, 2012; Harang, 2017; Ternon, 2018).

As Inge Van Bamis remarks, “In recent historiography, there has been a rapprochement between the political, cultural, social and legal interpretations of the granting of pardons” (Van Bamis, 2014, p. 70). This has probably been facilitated by the emergence of the history of crime and criminal justice, which combines these different approaches (Hoareau-Dodinau, Rousseaux, & Texier, 1999; Bourguignon, Dauven, & Rousseaux, 2012; Dauven & Rousseaux, 2012). For example, the works by two legal historians, Pascal Texier and Hugo de Schepper, carefully examine the political implications of pardoning in France and the Low Countries and how this practice served the rule of the royal or princely government (Texier, 1984, 1999; Cauchies & de Schepper, 1994; de Schepper, 1995). Similarly, historians have produced several monographs examining in detail the procedure of pardon, how the parties would get involved in it, and how it could be articulated with other forms of mitigations or litigations (de Schepper & Vrolijk, 1998; Le Bailly, 2001; Glaudemans, 2004; Vrolijk, 2004; Abad, 2011; Abreu-Ferreira, 2015). There have finally been a series of attempts to establish a typology of the different subcategories of pardon letters that existed in different countries (such as the “remission,” “abolition,” “banishment reversal,” etc.), based on an examination of the legal formulae and the diplomatic composition of the documents (Gauvard, 2009; Abad, 2011; Dauven, 2014).

3. The sources: Accessing the voices of criminals?

Judicial records are a seductive source material for historians. They transcribe the voices of ordinary, even subaltern people, whose vivid narratives give to the reader the feeling of an intimate connection with them. Yet the evaluation of the sincerity of these transcripts has also been a lasting debate among scholars, due to very specific context of their production, namely, a judicial procedure. There were many reasons for deponents to lie or distort the truth. Besides, these records are often incomplete, particularly before the 16th century, and so they give a very limited vision of judicial cases that could last several years (Arnold, 1998; McSheffrey, 2008).

In the case of pardon letters and petitions for pardon, although their narrative content has sometimes been considered as “spontaneous” (Bourin & Chevalier, 1981, p. 246), most historians adopted a source-critical approach by considering that they were a “dressing of the truth” (Braun, 1984, p. 209), a self-indulging discourse elaborated by the petitioner to support his demand for pardon. Natalie Zemon Davis (1987) was the first scholar to address this issue in detail, as made clear by the provocative title of her book: *Fiction in the archives*. When someone committed a crime and petitioned to be pardoned, it was his own interest to embellish his story, in order to attenuate his responsibility, make his case remissible, and therefore catch the sovereign’s sympathy. The petitioner often benefited from the support of clerks, lawyers, or scribes who were familiar with the rules of the chancery and transformed his testimony into a proper petition. On the other hand, a suspicious petition could prompt the monarch and his council to commission an inquiry in order to check the veracity of the petition. Moreover, the pardoning procedure required the beneficiary to make peace with the victim or his family, which forced each party to confront their versions. Presenting a false declaration could therefore result in the rejection of the demand for pardon, and so the petitioner could not take the risk to tell a story that was too far from the truth. Gwilym Dodd perfectly summarizes this: “between fact and fiction . . . lay an extensive hinterland in which the petitioner’s case could be embellished or exaggerated in order to catch the Crown’s attention, but which did not risk compromising the petitioner’s position if his/her circumstances became the subject of a more detailed and thorough enquiry” (Dodd, 2007, p. 297). For Davis, it is precisely this hinterland that defines the fictional characteristic of pardon letters, and her work was – in the tradition of the linguistic turn – a successful attempt to unravel the implicit and explicit rules that dictated the self-indulging discourses transcribed in pardon letters.

Following the recent “archival turn” of the early 2000s, most historians working on judicial sources – and more broadly on any kind of government record – consider the necessity to examine the internal logic of archives, as the product of a specific context and administration, resulting from the interaction of individuals with various aspirations (Walsham, 2016). In the case of court records, this approach ultimately provides us a better understanding of the practices of litigants facing the medieval and early modern legal system (Goodich, 2006). Therefore, our knowledge of the conditions under which pardon stories were produced has improved considerably since the pioneering work of Natalie Zemon Davis. The quantitative study of the rhetorical strategies used by the pardon beneficiaries in their petitions gives us a

clear idea of the most common reasons why individuals were pardoned, thus shedding light on the attitude of monarchs towards excusable behaviour (Charbonnier, 2001; Texier, 2001; see also Bauer, 1996, pp. 159–170; Musin & Nassiet, 2010). The examination of epistolary manuals and chancery formularies also inform us of the literary and administrative norms that must be respected while writing a petition (Grévin, 2008; Dodd, 2011; Fossier, 2018). Finally, the clerks and scribes who helped in the redaction of petitions, their handwriting, and their legal and administrative knowledge have also been a matter of interest (Haskett, 1993; Gauvard, 1997; Métayer, 2000; Vrolijk, 2004, pp. 303–335; Bevan, 2013; Killick, 2018). At the same time, historians have not stopped to read these sources “against the grain” (Davis, 1987, p. 4), going beyond the legal and literary artifices in order to reconstruct the ordinary lives of people from the late medieval and the early modern period. Although not sincere or disguised, the voices of individuals recorded in pardon letters continue to provide us with valuable information that have not been recorded in other sources (Charbonnier, 1990; Arnade & Prevenier, 2015; Erdélyi, 2018).

4. Violence and its interpretation

As a matter of historical research, violence has initially been the object of moral condemnations. “By putting on display the brutal violence deemed typical of medieval Latin Christendom,” historians of the late 19th and the early 20th century indeed “sought to provide students and citizens alike with compelling reminders of the failures of a world without states” (Smail, 2012, p. 8). Brutality was first and foremost the expression of the emotional pulsion and the irrationality of medieval people with “simple, harsh and cruel manners” (Dehaisnes, 1876, p. 339). At the end of the 1930s, sociologist Norbert Elias elaborated his famous historical model of the civilizing process, according to which the emotional and impulsive violence of medieval people was gradually domesticated by the integration of self-constraints resulting from the pacification of society and the development of a new civility (Elias, 1978). Legal historians also developed an interest in the study of violence, but only as the expression of a criminality targeted by the progress of law enforcement and the extension of criminal justice. From the 1960s onward, social historians and thereafter historians of crime and criminal justice began to investigate violence described in court records, with a focus on bloodshed and homicide, which were the most easily recognizable and numerable categories of crimes. They also tried to identify the reasons for the long-term decline of violence – and particularly homicide – from the late medieval and the early modern era. The eliasian model of the civilizing

process, which acquired a growing interest in the 1970s, offered a first explanation (Spierenburg, 1995, 2001). Scholars found in the works of Michel Foucault (1979) and Gerhard (1982) Oestreich an alternative narrative in which the absolute State and local authorities from the 16th to 18th centuries played an active role in the taming of violence through coercive means of social disciplining, forcing the population to adopt new comportments (Spierenburg, 2004; Rousseaux, Dauven, & Musin, 2009).

The socio-economic paradigm that dominated until the middle of the 1970s, particularly among the French school of the *Annales*, initially led historians to envisage criminality, and therefore violence, as the product of poverty and marginality (Rousseaux, 2006, p. 124). However, with the progress in the study of criminal court records and the success of historical anthropology and cultural studies in the 1980s, historians reoriented their interpretation of violence as a well-integrated behaviour of medieval and early modern society, a behaviour that obeyed a series of social codes and implicit rules and could therefore be reduced to an irrational pulsion. In that sense, pardon letters have been a major resource for this new understanding of medieval and early modern violence because they make it possible to study, often in detail, the circumstances in which a crime was committed. Pardoned criminality was not systematically violent, as it occasionally included theft or money counterfeiting. Yet a large majority of pardon letters were granted for homicide or assault. The seminal contributions by Robert Muchembled (1989) and Claude Gauvard (1991) demonstrated that the violence described in 14th- to 17th-century French remission letters was the product of day-to-day conflicts ruled by the social mechanism of individual and collective honour. Violence was even, in a sense, a private means of conflict resolution that coexisted with arbitration and litigation. Most research was thereafter turned toward the cultural dimension of violence, and particularly its ritual dimension (Spierenburg, 1998). More recently, the distinction between impulsive and ritual violence have tended to be reduced, as it appears that even the spontaneous emergence of violence could be part of a ritual framework. Therefore, current research on pardon letter envisages violence as one form of communication among others in the dynamics of social conflicts (Chaulet, 2008; Skoda, 2013). It also demonstrates that these different forms of communication were not mutually exclusive, as, for example, a dispute on property or inheritance could result in an alternance between civil litigation and the use of private violence, depending on the strategies of the parties who sought to both assert their rights and defend their honour (Smail, 2003; Carroll, 2006; Abreu-Ferreira, 2015).

5. Pacification, coercion, and the rise of the early modern State

Because it allowed one to escape punishment in exchange for payment, the granting of pardon letters have been regularly criticized by the medieval and early modern contemporaries as a kind of impunity for criminals and therefore a problem for public order (McCune, 1989; Gauvard, 1991, pp. 907–920; Le Gall, 2006; Lacey, 2009, pp. 73–81, 100–106; Vincent, 2015). The first historians who worked on pardoning subsequently echoed these criticisms, like the example of William Stubbs who saw in this practice an “evil [that] was not merely an abuse of the royal attribute of mercy or a defeat of the ordinary process of justice, but a regularly systematised perversion of prerogative” (Stubbs, 1877, pp. 583–584). This opinion was shared by Naomi Hurnard who considered the royal prerogative to pardon to be “used to excess” and “in complete disregard of the need to maintain the deterrent force of prospective punishment” (Hurnard, 1969, p. vii). The indulgence of the monarchs vis-à-vis their soldiers and the practice of granting massively pardon letters to offenders in exchange of a military service has particularly been interpreted as an abuse and a factor of troubles (Hurnard, 1969, pp. 247–250; see also Kaeuper, 1988, pp. 124–125).⁴ Yet following the pioneering work by Edward Powell (1989) a new approach in the study of the administration of justice has gradually led scholars to reevaluate the role of pardoning in the construction of the monarchical power and the maintenance of public concord.

Contrary to a common misconception, justice in late medieval Europe was not particularly brutal. Capital punishment itself was relatively infrequent, in comparison to banishment or financial penalty. In addition, there were several ways for offenders to escape punishment, even in the case of homicide, including an agreement with the victim’s family or a financial composition with the local justice (Cohen, 1983; Geary, 1986; Rousseaux, 1996, 2007; Malegam, 2013; Gauvard, 2018). From the 13th century onwards, the affirmation of a monarchical power in most Western polities provoked an extension of royal or princely justice and a progressive criminalization of homicide (Rousseaux, 1995). Since most medieval customary laws indiscriminately punished all homicides by death, local justices and juries however became reluctant to condemn individuals for manslaughter or killing in self-defence. Moreover, the growing use of the prerogative to pardon by sovereigns served them to soften

⁴ For recent research on military pardons, see Porras Arboledas, 1999, pp. 175–180; Gauvard, 2009; Lacey, 2009; pp. 100–106; Prétou, 2010, pp. 196–202; Villalon, 2013; Verreycken, 2014, 2018; Gribit, 2016, pp. 46–48, 58–59.

the *rigos iuris* by frequently remitting excusable categories of homicide, which allowed them to impose an image of a merciful ruler (Green, 1972, 1976; Gauvard, 1991, pp. 798–806; Duarte, 1999, pp. 272–274). Although most pardon letters were granted for homicide, there was no real limitation to the monarchical power to pardon. Even when the monarchs, under the pressure of their subjects, promulgated a list of irremissible crimes such as murder, rape, or arson, they continued to pardon any category of offense until the end of the Middle Ages (Bellamy, 1973, pp. 191–198; Green, 1976, pp. 457–472; Abreu-Ferreira, 2015, p. 7; Gauvard, 2018, pp. 202–209).

A pardon reintegrated its beneficiary into society, but it also obligated him or her to conclude an arrangement with the victim's family. This peace with the victim's party (called *paix à partie* in France and the Low Countries, *perdão de parte* in Portugal, or *apartamiento* in Spain) was similar to the private forms of arbitration that existed at that time, except that it was fully integrated into the pardoning procedure as an essential condition to the effectivity of the pardon. The granting of pardon letters was therefore a means of reconciliation between the parties, and it gradually supplanted any other form of appeasement (Gonthier, 1996; de Schepper & Vrolijk, 1998; Chaulet, 2003, pp. 38–43; Abreu-Ferreira, 2015).

The 15th and 16th centuries indeed saw a decline of the traditional means of mitigation, while the judicial system became more repressive and oriented towards the use of corporal and capital punishments – phenomenon characterized by Xavier Rousseaux as a switch from a justice of taxation to a justice of repression encouraged by the rising absolute early modern State (Rousseaux, 1996, 2007; see also Muchembled, 1992; Musin, 2017). By the middle of the 16th century, the only way to escape punishment or to make an arrangement with the victim's party was through the pardoning procedure, which established the monarchs' monopoly on the means of reconciliation (Dupont-Bouchat, 1999). Finally, this coercive period saw a restriction in the access to pardons, both in law and in practice, as the granting of pardon letters was gradually limited to accidental homicides and those committed in self-defence or by anger (de Schepper, 1995; Vrolijk, 2004; Musin & Nassiet, 2010; Musin, 2017).

Since the 1990s, a new consensus gradually appeared in the historiography, according to which the development of pardoning in Western Europe served the construction of monarchical power, not only in kingdoms such as France, England, Portugal, Castile, or even Scotland (Gauvard, 1991, 2003; Duarte, 1999; Kesselring, 2003; Chaulet, 2008; Lacey, 2009; Nassiet & Musin, 2012; Neville, 2016), but also in princely polities such as the Low Countries

the duchies of Bourbon, Brittany, and Lorraine, or the principalities of the Holy Roman Empire (Boone, 1989; Bauer, 1996; Mattéoni, 2010; Dominé-Cohn, 2012; Pégeot, Derniame, & Hénin, 2013; Arnade & Prevenier, 2015; Beaulant, 2016; Verreycken, 2017). Although most historians did not consider the granting of pardon letters simply as the product of an arbitrary and corrupted justice that caused a crisis in public order, some scholars, however, questioned the rise of pardoning as a symptom of the progress in law enforcement. Robert Muchembled argued that, in a context of strengthening of the judicial coercion against blood crimes, the increasing number of pardon letters granted in the 16th century was the sign of a failure in prosecuting fugitives. By granting a pardon, the monarch kept up appearances by imposing the mark of his sovereign justice on those who in fact managed to escape it (Muchembled, 1989, p. 22, 2007, p. 1090).

On the contrary, Claude Gauvard objected that pardon letters served to temper the growing severity of justice, whereas the sovereign affirmed his absolute power over the life and death of his subjects (Gauvard, 1991, 2018). The “government by grace,” as called by Gauvard (2003), was therefore a means to impose the monarch’s authority over his subjects, since the petitioners explicitly recognized his sovereignty by begging for his mercy. David Potter (1997) observed that the frontier region of Picardy received more remission letters than any other principality in France. He saw in this phenomenon a symptom of general insecurity, caused by the level of violence and armament in a highly militarized region that was a battleground in conflicts with the Burgundian State until 1477. Isabelle Paresys (1999), Pierre Prétou (2010), and Léonard Dauphant (2013), who followed Gauvard’s idea of a “government” or “subjection by grace”, on the contrary argued that the intensification of the pardoning activity near the borders or in newly conquered territories allowed the king to impose his authority and obtain the loyalty of his subjects. There have been similar observations on the frequent increase in the granting of pardon letters that followed the end of a rebellion or a civil war: by offering individual or group pardons as political amnesties, the monarchs sought to pacify society by offering reconciliation to the rebels, on the condition that they recognized his authority (Kesselring, 2003, pp. 163–199; Vrolijk & de Schepper, 2004; Soen, 2007, 2012; Lacey, 2009, pp. 127–159; Nassiet, 2010, 2013).

The granting of pardon letters could also be an instrument of political clientelism for monarchs who favoured the members of some powerful families or local patricians (Prevenier, 2010). The practice of intercession, allowing a petitioner to obtain the support of a servant or a

relative of the monarch, clearly privileged those with a large social and political network. The fact that the names of these intercessors was regularly mentioned in the pardon letters shows that intercession was a part of the political game considered to be public, and therefore it was also a means of status recognition for the people capable of influencing the monarch's decision (Bothwell, 2004, pp. 99–102; Kesselring, 2003, pp. 119–135; Lacey, 2009, pp. 44–58).

Finally, it has been argued that the increasing number of pardon letters, especially during a period of judicial coercion, could even have a long-term disciplinary virtue. Pardoning meant to designate which category of violence was likely to be pardonable and which was not, and therefore encouraged the subjects to adopt better conduct (Gauvard, 1999, 2005, pp. 264–282; Verreycken, 2018). Even when the monarchs had no limit in their power to pardon, they predominantly remitted crimes that were considered socially acceptable, namely, unpremeditated homicides. Following this interpretation, the restriction of the pardoning criteria and the development of a more repressive justice system in the 16th century were the two faces of the monarchs' effort to tame the most extreme forms of violence through a global policy of social-disciplining. They were, in other words, two essential elements in the construction of the so-called early modern State imposing its monopoly of legitimate use of force.

6. An alternative perspective

“In the master narratives of modernity, the evolving state gradually monopolized violence, taming thus the violent tenor of the European Middle Ages” (Erdélyi, 2018, pp. 11–12). Following Gabriella Erdélyi's observation, one may indeed remark that what has been discussed in the previous section follows the classical theory of the top-down process of early modern State-building, characterized by a public monopoly of violence by coercive means resulting in the pacification of society (Tilly, 1992; Pinker, 2011). This model has encountered numerous critics over the past twenty years, notably because of its semi-determinist interpretation of State formation as a *sui generis* process that emerged from the central government (Davies, 2003). Historians also gave nuance to the role of State formation in the decline of violence, whether it was caused by the integration of self-constraints by the population (civilizing process) or by the pressure of coercive external forces (social-disciplining). Following Tilly's famous statement that “war made the state, and the state made war” (Tilly, 1975, p. 42), historians insisted on the bellicose spirit of the early modern State, its constant need for developing its armies, and the extreme violence carried out by war, which

contradicts the idea that State formation automatically leads to the pacification of society (Gunn, Grummitt, & Cools, 2008). Criminal justice historians also offered a third alternative to the civilizing and disciplinary models of the decline of violence in the early modern period, insisting on the role of a global modification of social structures (Schwerhoff, 2002; Nassiet, 2011). Consequently, the development of pardoning in late medieval and early modern Europe cannot be interpreted exclusively through the paradigm of a top-down State formation and pacification. Let me present briefly two different perspective.

Firstly, it has been argued that the monarchs' monopolization of the power to pardon at the end of the Middle Ages coincided with a transformation of the judicial system that switched from a model of conciliation based on mitigation and financial penalty to a judicial model of repression based on corporal and capital punishment. Yet one case particularly illustrates that this narrative of a "judicial revolution" (Lenman & Parker, 1980) cannot be applied in all polities of Western Europe: the Italian city-states. In medieval Italy, at the time of the communal regime, the power to pardon was generally held by the city councils and coexisted with other methods of reconciliation such as private peace-making (Kumhera, 2017). After a period of culminating judicial repression against violent crimes between the 14th and the 15th century, the rise of the seigneurial regime in the late 15th century transformed the city-states into local monarchies, allowing the princes to monopolize the prerogative to grant pardon letters. However, this new regime demonstrated a certain leniency in using corporal and capital punishment for non-political crimes, rather favouring pecuniary sentences and private arbitrations. The early modern period was therefore marked by a return to the ancient practices of conciliation alongside the development of monarchical power and pardoning (Brackett, 1992; Zorzi, 1998; Niccoli, 2007; Blanshei, 2010).

Secondly, an important criticism against the top-down model of modern State-building is that it neglects the contribution of subjects in the growth of institutions and coercion (Blockmans, Holenstein, & Mathieu, 2009). Instead, recent studies focusing on the judicialization of private conflicts and the strategic use of the courts by the litigants led historians to a new consensus that the construction of the State must also be considered from a bottom-up perspective (Smail, 2003; Rose, 2017). So should be considered the system of pardoning. According to Maarten Van Dijck, in an urbanized society such as the Low Countries, local justices and urban authorities remained the initiators of judicial repression despite the growing control of the central government over the judicial system. For Van Dijck, the success

of pardon letters granted by the monarchs (the dukes of Burgundy and their Habsburg successors) was the result of the choice of the subjects who found them more attractive, financially speaking, than other forms of mitigation (Van Dijck, 2009, 2012). There are other examples inviting researchers to investigate the strategies of consumption of mercy adopted by the beneficiaries, like when the monarch granted pardons for free in specific occasions such as the Good Friday or a Happy Entry, which probably incited certain offenders to wait for this moment to present their petitions (Porras Arboledas, 1999, pp. 182–186; Chaulet, 2008, pp. 29–30; Murphy, 2013; Dauven, 2016). Similarly, in England, it seems that when the king in Parliament proclaimed a general pardon to all his subjects for any past misdeed, people who were not yet accused of any offense acquired a charter as a precaution, to avoid any future prosecution (Lacey, 2009, pp. 91–92).

7. Conclusion: So much more to write!

This article sought to survey the evolutions of research on pardon letters. Initially considered as anecdotal documentation by most historians during the 19th and early 20th centuries, pardon letters gradually acquired a new status in historiography as a major source for the study of violence and the administration of justice in medieval and early modern Europe. Over the last 30 years, research on pardoning was largely influenced by the debates in the history of crime and criminal justice. Questioning the sincerity of criminal records in general, historians sought to understand the internal logic and the context of production of these archives. By investigating these records, they ceased to consider medieval and early modern violence as the product of the margins of society and rather interpreted it as a well-integrated form of sociability. Historians of crime and criminal justice have also debated the use of pardoning as a coercive means that accompanied the strengthening of justice. Finally, following the critics of the top-down model of early modern State-building, they reconsidered the participation of the subjects in the growth of pardoning.

Yet is it to say that everything has really been written on pardon letters? Probably the regular publication of research should not lead us to conclude that there is nothing more to say on this subject, but on the contrary that there is so much more to explore. Pardon letters remain an inexhaustible reservoir of information for research in social, economic, cultural, legal, administrative, and of course criminal justice history, and historians will continue to use these

documents as their methodologies and spheres of interest evolve. Furthermore, one may regret the lack of work on the use of pardoning in periods of rebellion and civil war, particularly for the Wars of the Roses and the Wars of Religion. Similarly, despite the pioneering work of John Beattie (1987), there has been few recent works on the use of pardon letters after the 16th century, with the notable exception of the monograph by Reynald Abad (2011). The same applies for research on pardoning in the Holy Roman Empire. We can also hope for a rapprochement between research on pardon letters granted by lay chanceries and studies on papal absolutions issued by the Apostolic Penitentiary. Finally, it is precisely because there is an abundant literature on pardon letters in most Western polities that we can expect in the future scholars to adopt a large geographic and chronological perspective and produce ambitious comparative studies on the use of pardoning in medieval and early modern Europe.

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