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“POLICING VIOLENCE: ROYAL AND COMMUNITY PERSPECTIVES IN MEDIEVAL
FRANCE”

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ABSTRACT

Violence is, and was, a destructive interpersonal act that occurs both on the large scale through wars, and small scale between two or several people. In medieval France, under the right circumstances, violence was simultaneously policed, and used to police society, especially at the interpersonal level. Men, women, the young, and old were all victims and perpetrators of violence. However, gender and age were significant factors in the legitimization of violence. Men would engage in interpersonal disputes in self-defense, to maintain their honour and reputation, as well as to maintain social order. Women were more likely to be the victims of sexual assault perpetrated by men, but the severity of their attacks was dependent on their age and sexual maturity. These distinctions illustrate that there were some women who were more valued in society than others, for example virgins were pure and had value for marriages.

It is the purpose of this thesis to demonstrate that there were legitimate and acceptable forms of violence that could be used to police society. While murder/homicide and sexual violence were deemed to be capital offences, among local communities, where dominant cultural norms superseded “the law”, violence was sometimes considered a productive social force. It could be used to reinforce social values and maintain power structures, especially patriarchy.

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INTRODUCTION

Violence permeated late medieval society at all socioeconomic levels and involved all genders; no one was excluded. However, violence was not a static or universal act of wrongdoing. In some societies – past and present – violence could be a useful tool for maintaining social relationships and balancing power, and more generally for maintaining the status quo. Medieval Europe was certainly a violent place and France was no exception. In the medieval context, violence had a specific social function and was therefore not necessarily considered to be an egregious act to those involved or to potential witnesses. Primary source evidence surrounding the use of violence, especially at the interpersonal level, suggested that those who resided in cities and towns across the realm actually used violence to police each other's behaviours. Community and royal policing exemplified the significance of maintaining social order and enforcing moralities. Because violence could be used to reinforce moral codes, social order, and the status quo, it was highly structured among those who resided in the cities and towns by a series of cultural and social norms. These norms constituted the “rules” for how one ought to behave, especially concerning disputes, and were sometimes further reinforced by local and customary laws.¹ This thesis explored the tensions between the community's and the royal authority's views on violence as a means of controlling behaviours. These tensions arose when disagreements surrounding the proper uses of violence were incompatible between the two levels of society. The royal authority, in the name of the king, attempted to put an end to all violence through the issuance and attempted punishment of laws, whereas the community had normative uses for violence to regulate the actions of their peers.

¹ For a discussion on the legally sanctioned use of violence through enmities, see Robert Bartlett, “‘Mortal Enmities’: The Legal Aspect of Hostility in the Middle Ages,” in *Feud, Violence, and Practice – Essays in Medieval Studies in Honor of Stephen D. White*, eds. Belle S. Tuten and Tracey L. Billado, 197-212 (Burlington: Ashgate Publishing Company, 2010), 198.

This thesis focused on the policing of behaviours through violence within the community and its tense relationship with the attempts made by royal authority who wanted to control violence. These two distinct but interrelated levels of society were in constant competition for authority and the right to impose justice and seek order throughout society. Those who resided in the towns and cities, who were not members of the royalty, clergy, or nobility, will henceforth be referred to as the “community.” This demographic engaged in interpersonal violence, at the street level; in other words they were engaging in small acts of violence with only a few people, and therefore few witnesses. Compared to the nobility, the communities’ acts of violence were not at the same intensity as private noble wars. The term “royal authority” will therefore refer to the King of France, or any person of authority acting on his behalf to impose royally sanctioned laws, especially laws against violence. In considering the two forms of policing violence between the two levels of society this project asked: How did the royal authority and community police violence? And, how was violence used to police members within the community?

Central to the medieval world was one’s reputation. Someone was only as good as his or her word, and how others spoke about them. Therefore, a central theme that was prominent in the scholarship on medieval Europe, on crime and legal recourse during this period, and which is visible in the primary sources was the notion of *fama*. This word was used to designate one’s reputation and how the community perceived an individual and their family. *Fama* was not only reputation, but also how the community talked about a person; their *fama* was based on how community members perceived their peers through their “collective memory.”² *Fama* could be the only catalyst necessary to initiate a case in court, which signified the weight and *gravitas*

² F.R.P. Akehurst, “Good Name, Reputation, and Notoriety in French Customary Law,” in *Fama: The Politics of Talk and Reputation in Medieval Europe*, eds. Thelma Fenster and Daniel Lord Smail, 75-94 (Ithaca: Cornell University Press), 81.

community talk had on community perceptions of an individual.³ F.R.P. Akehurst's study of reputation and medieval France suggested that a person's identity was interwoven with their reputation. Reputation was the only source of credibility that a medieval French person had, and their actions would affect their reputation either positively or negatively. If someone was of good repute, or *fama*, then they had access to all of society, especially in terms of the courts. Only those of good *fama* were able to bring cases to court and accuse others.

Claude Gauvard has even argued that those with good reputations could not be accused of crimes.⁴ To designate someone as a "criminal" was a most egregious label that could not be reversed, this labeling would have destroyed the accused's *fama* and they would be ostracized from society.⁵ Whereas an individual with a poor reputation became a social outcast and was extremely limited in their ability to use the court system, even if they were the ones who were in need of help.⁶ Reputation was so significant to the medieval person that it was deemed an extension of their corporal body, and of more value than flesh.⁷ There were many factors that influenced one's reputation, including "gender, class, social status, wealth, connections, bribes, friends, and community," all of which could have negative or positive impacts.⁸ Reputation and perceptions of violence were shaped by community understandings of what was and was not appropriate behaviour. Akehurst's study demonstrated the importance of talk and communication throughout French society. When most of the population was illiterate, there were few ways for

³ Skoda, *Medieval Violence: Physical Brutality in Northern France 1270-1330* (Oxford: Oxford University Press, 2015), 34.

⁴ Gauvard, "*De grace especial*," *Crime, État et société à la fin du Moyen Âge*, 2nd ed. (Paris: Publications de la Sorbonne, 2010), 140.

⁵ Hutchison, "Defamation a Murder *More Foul*: The Two Murders of Louis, Duke of Orleans Reconsidered," Forthcoming, 15-6.

⁶ Akehurst, "Good Name," 77-81.

⁷ Hutchison, "Defamation: a Murder *More Foul*," 19.

⁸ Hanawalt, *'Of Good and Ill Repute: Gender and Social Control in Medieval England* (New York: Oxford University Press, 1998), 1.

common people to interact with each other. When considering violent offenses, one's reputation shaped the outcome of the events.

Early inquiries into violence and the use of violence had a focus on feuds, enmities, personal wars, and were mainly believed to have been the exclusive pastimes of elites, the noblemen/women of medieval France. Nobles who engaged in private wars and enmities were serving to normalize violence as a form of justice outside the laws of the kings. William Ian Miller wrote extensively on revenge in twelfth century Iceland, where the social elite, including the kings, engaged in acts of revenge that were above the prescribed laws.⁹ Supporting the argument that feuding was limited to elites, Howard Kaminsky argued that nobles were the only class who were allowed "the right to feud."¹⁰ Kaminsky and Miller's writings demonstrated that the use of violence through acts of revenge extended beyond the law, and that revenge was used to attain justice that the laws could not provide. Resorting to violence in the form of revenge became an acceptable means of arbitration for justice.

Revenge was very similar in many respects to enmities, where parties would declare an official hatred for each other and justify any future violence between the parties. Robert Bartlett investigated the use of enmities among nobles as a form of seeking justice beyond the law, further normalizing the use of violence. Enmities were deemed to be their own legal category, where those who entered into an enmity had special dispensations or "exceptions" before the law.¹¹ Enmities were agreements between rivals where they could use violence as a form of revenge for a perceived wrong. Bartlett and Miller both investigated the use of violence among the nobility and upper classes. Nobles normalized violence as a means of arbitration,

⁹ William Ian Miller, "In Defense of Revenge," in *Medieval Crime and Social Control*, ed. Barbara A. Hanawalt and David Wallace, 70-89 (Minneapolis: University of Minnesota Press, 1998): 70-5.

¹⁰ Howard Kaminsky, "The Noble Feud in Later Middle Ages," *Past and Present* no. 177 (2002): 61-2.

¹¹ Bartlett, "Mortal Enmities", 200.

circumventing or acting above royal laws. Violence became a significant feature to medieval culture for arbitration and negotiation for all members of medieval society.

Despite the use of violence among nobles for their own means, they were not responsible for maintaining the peace of the realm, nor were they charged with dispensing justice. Historians shifted focus from noble violence, to who was actually responsible for regulating violence to establish peace in the kingdom. The king had made attempts to control the violence, although these attempts were ineffective to some extent. Justine Firnhaber-Baker demonstrated that it was ultimately the king who was the “peacemaker.”¹² Between the reigns of King Louis VI (r. 1108-1137) through King John II (r. 1328-1350) the concept of peace within the French realm was not well defined, it was not until the reign of King John II where he argued that his suppression of private wars superseded customary practices because he was divinely chosen to dispense justice on earth by God.¹³ Firnhaber-Baker argued that between the reigns of Louis IX (r. 1226-1270) and John II there was a shift in the role of the king, which was to maintain peace through the proscription of violent acts. Hence, the concept of peace, order, and the common good became focal points for ruling and only through the delegitimization of violence could these virtues be achieved.¹⁴ The kings were in charge of maintaining peace, order, and dispensing justice throughout the realm, but there were contested ideas of royally ordained peace that nobles actively ignored, as they continued to participate in private wars.

Firnhaber-Baker’s work reflected two major historiographical themes that had been the topics of much discussion: first the notion that the kings were in charge of maintaining peace, order, and justice throughout the realm; and second that there were contested ideas of royally

¹² Justine Firnhaber-Baker, “From God’s Peace to the King’s Order: Late Medieval Limitations on Non-Royal Warfare,” *Essays in Medieval Studies* 23, (2006): 19.

¹³ *Ibid.*, 20-5.

¹⁴ *Ibid.*, 26.

ordained peace that the nobles (and community) ignored or circumvented. These notions were significant because there was an implicit notion that those engaging in private wars were ignoring and disobeying the orders of the king to achieve their own forms of justice through violence. For the nobles to engage in personal wars also demonstrated that there was a need to seek out justice for a dispute, beyond the authority of the king. The studies of nobility and violence demonstrated that although the king did impose his authority and laws on his subjects, the subjects would often reject his legal impositions in favour of cultural and customary norms.

The laws of the French kings evolved gradually throughout the centuries, slowly replacing the customary laws that were popular among the populace in an attempt to centralize the power of the crown.¹⁵ Beginning in the thirteenth century, French kings sought to consolidate their authority by revoking regional laws and customs that had become popular throughout French lands. Eventually, by the fourteenth century, the Parlement of Paris (the highest court of the realm and the institution associated most closely with the king's chancery) was attempting to streamline legal processes and eliminate regional attempts at private law enforcement.¹⁶ Under this new centralized law system, medieval France was still not a coherent state; royal judges were not placed in individual villages, and there was no police force, which resulted in communities maintaining private remedies to violent actions.¹⁷ The inability of the king to enforce his laws was apparent through the use of violence among the populace to maintain peace itself.

¹⁵ Jean-Marie Carbasse, *Histoire du droit pénal et de la justice criminelle* (Paris: Presses Universitaires de France, 2000): 159.

¹⁶ *Ibid.*

¹⁷ *Ibid.*, 189. Carbasse claims that there was no police force until the reign of Louis XIV. There were, however, royally sanctioned police units, such as the Provost of Paris who was in charge of maintaining peace within the city of Paris, and the prison of the city, the Châtelet.

Claude Gauvard considered the attempts to control violence, even when regional customs remained influential in the shaping of the law or its enforcement, as a power discourse used by the French government during the fourteenth and fifteenth centuries.¹⁸ The proliferation of crime was a catalyst for the early establishment of the French State, therefore, although crime was disordering it also served to unite and build government structure.¹⁹ As a response to crime and violence that was common throughout society, the crown reacted by implementing a static means of arbitration and the system of remission letters to ensure peace throughout the realm.²⁰

Despite attempts by the king to stop noble wars through legislation, he was also attempting to control violence at the street level by establishing law courts. Like the nobility, the community decided which laws they accepted and the ones they challenged. The courts were another means to manipulate the system. Daniel Lord Smail has argued that the citizens of Marseilles were “consumers” of the judicial system.²¹ But, despite Smail’s argument that the courts were a forum for legal vengeance and emotional satisfaction, the citizens of the realm continued to use of violence amongst themselves to attain personal justice.²² Miriam Müller, who investigated the use of the hue and cry in medieval England, made similar arguments about the uptake by the community to regulate violence.²³ Barbara Hanawalt noted that in England a failure to report crimes (such as through the hue and cry) was punished with fines, reinforcing royal attempts of controlling violence.²⁴ Those within the community were expected to call attention to crimes in progress as a form of community policing. The royal authority was

¹⁸ Gauvard, *Violence et ordre publique au Moyen Age* (Paris: Picard, 2005), 11.

¹⁹ *Ibid.*

²⁰ Gauvard, *De grace especial*, 941.

²¹ Daniel Lord Smail, *The Consumption of Justice: Emotions, Publicity, and Legal Culture, 1264-1423* (Ithaca: Cornell University Press, 2013), 19.

²² *Ibid.*, 11-16.

²³ Miriam Müller, “Social control and the hue and cry in two fourteenth-century villages,” *Journal of Medieval History* 31 (2005): 31.

²⁴ Hanawalt, *Of Good and Ill Repute*, 10.

implementing laws and establishing courts as a means of limiting street violence, but the violence continued. If the courts were not reducing the amount of violence, historians questioned whether violence actually served a purpose in medieval society.

Historians, such as Hannah Skoda and Warren C. Brown questioned the function of violence at the street level; they argued that violence was a form of communication. Skoda used the term “grammars” of violence, which designated the communicative structure by which violence was understood by medieval French people.²⁵ Violence was intended to be a spectacle that communicated a message that was both “performing and performative.”²⁶ Brown also argued that violence in the medieval world was regulated by strict social norms, defined as “models, standards, or patterns of social behaviour that [were] accepted or expected by members of a group.”²⁷ Skoda and Brown’s studies enhanced historians’ understandings that dominant, localized norms (or values) relating to violence were invoked and sometimes manipulated by the king’s subjects in their community settings in order to legitimize or delegitimize their actions. In other words, violence could be legitimized under specific circumstances and social settings, both of which were highly influenced by prevailing cultural, social, and sometimes political values.

Historians have either focused on the royal perceptions of violence, the nobility using violence for private feuds, or street level violence. This thesis fits into the historiography of violence in medieval France by bringing attention to the disconnect between the royal authority’s impositions of laws against the use of violence and the community’s continued exploitation of violence for justice. The French crown in turn legitimized these acts of violence through the issuance of pardon letters.

²⁵ Skoda, *Medieval Violence*, 3.

²⁶ *Ibid.*

²⁷ Warren C. Brown, *Violence in Medieval Europe* (Toronto: Pearson, 2011), 9.

Pardon letters (or *lettres de remission*) issued by the Parlement of Paris, the king's highest court from 1410-1411 comprised the bulk of primary sources for this thesis. These letters were from the JJ 165 series housed at the *Archives nationales de France*. Pardon letters were granted to people who had been accused of and charged with a violent crime for which the penalty was death. However, in these same cases there was sufficient testimony from the community to advocate for and ultimately secure the release of the accused. These letters proved to be useful to studies of violence because they demonstrated the types of crimes that were deemed pardonable, crimes for which sufficient numbers of community members would rally for a pardon, as well as intimate details of violent crimes. They can tell us a great deal about norms relating to gender, sexuality, status, and the social value(s) placed on particular bodies (such as youths or the aged), and what were generally deemed acceptable forms of social interaction in public and private settings. These letters were constructed narratives, which demonstrated that there was a way in which violence could be legitimized by the supplicant, and reinforced by the king.

In Claude Gauvard's influential work, *De grâce especial*, she described in great detail the process of obtaining a pardon. The pardons were granted by the royal authority and absolved the accused of all wrongdoing, and it did not matter which court was investigating the crime (ie. ecclesiastic, royal, seigniorial, or urban).²⁸ The accused had their reputation restored, as well as all their property, but the victim's interest and enmities were still upheld.²⁹ Pardons did not negate guilt, but indicated that the crime was not deemed worthy of punishment or that the guilty party being labeled as a person of ill repute. The process of acquiring a pardon could be long, arduous, and expensive: first, after the petition by the supplicant or their representatives, the

²⁸ Gauvard, "*De grace especial*," 63.

²⁹ *Ibid.*

master of requests passed the plea to the royal counsel and if approved was given to the chancellery who wrote the pardon and collected the applicable fees.³⁰ Once the pardon was granted, it went to a judge to be ratified in front of the accusers who had to approve all the claims being made in the pardon. Pardon letters were narratives of justifiable violence.

However, Natalie Zemon Davis' groundbreaking work on pardon letters queried their reliability. She noted that there was a process that had to be completed to ensure that the information being used to seek a pardon was accurate. The supplicant, or those seeking the remission letter on their behalf, had to tell the events to the royal notary who would then verify the details with the victim's family. After the victim's family confirmed the events in the letter, it was ratified and the pardon was granted to the appellant.³¹ Having the family review the pardon before it was granted to the supplicant suggested that these documents were reasonably reliable. Davis did note that the notary who wrote the events could embellish the narratives in an attempt to make the supplicant seem pitiful.³² There was also little information given about those involved, except for a few mentions of a supplicant being poor, or the victim being of ill repute or deserving of their fate. Davis' study of the sixteenth century remission letters had been highly influential because these rich primary sources had not been studied in depth. Davis' methodology and analyses of remission letters had been of great value to this study, especially her recognition of the letters as constructed narratives of the supplicants' needs to justify their actions.

What the documents suggested was that the most significant use of violence was to establish and reinforce order as well as police social behaviours and interactions. For example, when individuals became too rowdy or disorderly in collective spaces, there was a need from the

³⁰ *Ibid.*

³¹ Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford: Stanford University Press, 1987), 15-7.

³² *Ibid.*, 16.

community to restore balance by determining what was just, and what was unjust. A remission letter from ca. 1410 that was granted to a young man, named Guillome that illustrated this point well. The narrative in the document provided details that Guillome had, apparently, accompanied several men, including Roucelet, Jehan Bichur de Machesain the elder and his son Jehan to a tavern to have a meal together.³³ At the beginning of their night, the men had not thought badly of each other, nor had they intended to cause any disturbances. After they had eaten and had drunk heavily, however, a debate emerged between the Jehan the younger, and Roucelet; Roucelet insulted Jehan by calling him a womanizer but immediately took back his words because Jehan had been offended. Roucelet then apparently punched Jehan in the face, at which point Jehan the elder pulled out a big knife he was carrying. For reasons unknown, he threw it in the fire and took another little knife that was on the table and broke it in two. The supplicant, Guillome, went to Roucelet and intervened because the group was causing too much of a disturbance in the tavern. Jehan the younger argued that Guillome was equally guilty of causing a disturbance and took the knife from his father and cut Guillome severely enough that he thought he would die. When Guillome felt that he had been hit, he took a knife off the table and went after the son, but struck Jehan the elder in the chest who died. Guillome was taken to the secular prison of the archbishop of Reims and was imprisoned until the issuance of the remission letter. Guillome claimed that he had no hate towards the Machesain family and that they were in actuality good friends.

This remission letter served as an excellent example to the purpose of royally sanctioned pardons. Alcohol, emotion, and reputation were significant factors that resulted in the death of a man, and the pardon of the man who killed him. This letter also provided a strong introduction to medieval societal values and norms. The supplicant was also sure to include in his narrative of

³³ Paris, Archives nationales de France, JJ 165 fol. 63v. For this and what follows.

the events that he had been wounded gravely enough that he thought he would perish, this was significant because Guillome was legitimizing his retaliative violence. Violence was used as both a negative assault, and a positive reaction – Guillome had put the rowdy Jehan the elder in his place. As such, this pardon demonstrated the use of violence to police the behaviours of those living in the medieval world. The *lettres de rémissions* were granted to many violent offenders, like Guillome, whose actions were considered a negotiation through violence due to the dispute that occurred at the tavern caused by Jehan the younger. The multitude of violent crimes that were committed and subsequently pardoned demonstrated that violence had a complex social meaning in medieval French society.

The remission letters were attempts by the French government to control the violent behaviours of the communities, thereby reinforcing its sovereignty. The letters, however, also demonstrated the weakness of the Crown because it was acquiescing to the demands of the community to legitimize their use of violence. The strength of the influence the community had over royal legal process was apparent within the very structure of the letters. Each letter opened with a variation of the same line “Charles by the grace of god, king of France.”³⁴ This opening line was intended to impart to the audience made up of the community seeking the remission that it was only by the grace of the king that the pardon was going to be granted to the supplicant. Following the opening line where the king was introduced, the letter continued to say that the king has “received humble supplication of (name of supplicant).” The following portions of the letter detail the events that resulted in the need for the granting of a pardon. The letter ends with the supplicant being reinstated as a full member of the community. In all eleven letters it was

³⁴ Paris, Archives nationales de Paris, JJ 165 fol. 13r., JJ 165 fol. 11v., JJ 165 fol. 63r., JJ 165 fol. 58r.-58v., JJ 165 96r.-96v., JJ 165 44v.-45v., JJ 165 fol. 57r.-57v., JJ 165 42r.-43r., JJ 165 fol. 52r.-52v., JJ 165 fol. 73v., JJ 165 63v. For this and what follows.

made clear that it was only through the mercy of the king that the supplicant was being pardoned, negating any efforts the community would have put forward for the letter.

Despite the proliferation of pardon letters, the kings attempted to pass royal ordinances to control violence. To accomplish this, the kings of France issued specific rules surrounding the acceptable and unacceptable forms of violence that were codified into laws for all the populace, but which nonetheless were influenced highly by the customs of the regions in which they were published. The pardon letters legitimized violence through the power of the king, notwithstanding the king's attempts to limit violence on the streets. Royal ordinances point to the king's endeavors to stop violence. The primary focus of royal ordinances was on the laws issued by Charles VI (r. 1380-1422), but royal laws from other realms throughout medieval Europe were consulted for comparisons when relevant. There were hundreds of ordinance laws passed during Charles VI's reign. The abundance of royal ordinances can be supported with customary laws that were found in different regions of France. The royal authority of the king was embodied in his law and his officers of justice. With the law and his men the king attempted to regulate the forms of violence that could be used by the community. And yet the king engaged indirectly in violence in different ways, such as through war. Additionally, the punishments of capital crimes – those violent acts of disobedience to the Crown – were themselves violent by modern standards.³⁵ Punishments of capital crimes *had* to be spectacular events in order to reinforce the supreme authority of the king.³⁶ Royal authority passed several laws to try to ensure peace throughout the towns and cities, but these laws were not always in agreement with the

³⁵ Gauvard, *Violence et ordre public au Moyen Âge*, 51-2.

³⁶ For a discussion on punishments and spectacles to reinforce royal authority, see Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1995), Esther Cohen, *The Modulate Scream: Pain in the Late Medieval Culture* (Chicago: Chicago University Press, 2010), and Emily J. Hutchison "Pour le bien du roy et son royaume: Burgundian propaganda under John the Fearless, Duke of Burgundy, 1405-1418" (Diss. York, UK, 2006), 200-9.

cultural values that were held at the community level. From the example of Guillome and Jehan the younger, there was a power struggle between the king's law and community. Guillome was arrested and imprisoned for his homicidal act, but the community responded by demanding his release from the crown. In their eyes Guillome was merely trying to intervene in a fight that was not his. Ultimately the Parlement de Paris acquiesced.³⁷ From this we can see that the community did not agree with the punishment bestowed on Guillome and were successful in gaining his release.

Remission letters, like the one Guillome received, were granted to supplicants who could justify their violent acts. They were not relieved of guilt, but were restored to their former standing within the community. In addition to the supplicant's reputation being restored, they also had their goods and property reinstated. Supplicants had to have a good reputation (good *fama*) in order to have the support of their peers to rally for their release from imprisonment. A good reputation also ensured that what the supplicant said was trustworthy. Community conceptions of violence were shaped by the customs of those at the street level.

Customary laws, especially those written by Philippe de Beaumanoir were localized laws written based on cultural and societal values and norms. Beaumanoir's laws came from the community of Beauvaisis and were written in the early thirteenth century. Regardless of their local focus, these laws retained their significance because they represented some of the dominant values, customs, and norms shared within medieval French society writ large.³⁸ For example, although murder and homicide resulted in death, the circumstances surrounding the killing determined the severity of the punishment for the attacker. Although these customary laws were only in practice for a few years, the laws of Beauvaisis demonstrated the culturally acceptable

³⁷ *Ibid.* In the case of Estienne, it was his "*parents et amis charnelz*" who petitioned for his release.

³⁸ Philippe de Beaumanoir, *The Coutumes de Beauvaisis of Philippe de Beaumanoir*, translated by F. R. P Akehurst (Philadelphia: University of Pennsylvania Press, 1992), xiii.

and unacceptable forms of violence that were prevalent at the time.³⁹ These customary laws have been heavily studied by modern scholars to understand the distinction between customs and royal law, but also to get insight into social and cultural values and practices of medieval society.⁴⁰ Beaumanoir's laws were put in constant dialogue with other laws, both customary and royal, and with laws from other territories across Europe throughout what follows. In so doing, I was able to discern consistencies in perceptions of what forms of violence were deemed *just* and what were *unjust*, by whom, and why. Thus I determined precisely where conflicts between royal authorit(ies) and the subjects of the realm emerged in terms of how violence was practiced, policed, and punished. The contrast between, royal ordinances, remission letters, and customary laws demonstrated the intersecting levels of French society and the varied reactions of violence among the populace and government.

Other forms of primary sources that were used in this thesis included customary and royal laws from other realms throughout medieval Europe and Catholic Church sermons. These were helpful in teasing out where community conceptions of acceptable forms of violence were rooted. French citizens were constantly surrounded by and saturated in violence, whether it was through daily physical violent acts and experiences, including violent assault, war, and violent punishments, or the narratives of violence that were enshrined in various forms of literature during the period. For example, various miracle stories that were recorded by the Church and propagated through sermons, and other forms of popular literature such as fabliaux, were filled with examples of violence.⁴¹ To the diverse communities across the French realm, violence was

³⁹ *Ibid.*

⁴⁰ See Hannah Skoda, *Medieval Violence: Physical Brutality in Norther France 1270-1330* (Cambridge: Cambridge University Press, 2015); Claude Gauvard, "*De grace especial:*" *Crime, État et société à la fin du Moyen Âge* (Paris: Publications de la Sorbonne, 2010); Claude Gauvard, *Violence et ordre publique au Moyen Âge* (Paris: Picard, 2005); Richard W. Kaeuper, *Chivalry and Violence in Medieval Europe* (Oxford: Oxford University Press, 1999).

⁴¹ Skoda, *Medieval Violence*, 19-27.

therefore more significant than merely the physical act; it permeated all facets of their culture. The king's subjects were acutely aware of the cultural importance of violence.

Indeed the various grammars and norms of violence, as well as the royal authority's construction of what constituted a violent crime demonstrated that there were competing perceptions of violence across the French realm. Together with the primary sources describing actual violent acts that were committed, and the legislations attempting to regulate violence, this thesis argued that violence was simultaneously policed by royal authorities and by the community at the street level. Moreover, this thesis demonstrated that the latter had power enough to challenge royal authority and impose its own autonomy through the very system that sought to deny it.

In what follows I explored the community and royal conceptions of crime and violence in Chapter 1 where it was argued that there must be an understanding of the concepts of violence in the medieval period to fully grasp why they used violence regularly. The next two chapters will each focused on specific types of violence. Chapter 2 focused on the differences between homicide and murder, and how these two forms of violence further complicated medieval understandings of violence. In Chapter 2 it was argued that the use of a capital crime, homicide, could be legitimized and pardoned through pressures from the community on the royal authority. But the same was not applicable to cases of murder, which demonstrated the ambivalence of using violence to police each other. Chapter 3 investigated gendered violence – violence against women, including rape and domestic violence. In this chapter, the use of rape and domestic abuse as legitimate forms of violence to police and control women was discussed. It argued that these forms of violence were used as a means of maintaining social order and establishing the value of women within medieval French society. Throughout these chapters, the importance of

reputation, honour and how the narratives of the pardon letters were shaped around the supplicants' character were examined.

The goal of this research project was to reshape modern perceptions of violence from the past. To a modern western interpreter, who is invariably influenced by the dominance of a state-imposed judicial system, violent crime was rarely justifiable and always punishable. However in medieval France violence was a critical social tool used to settle disputes between people, mend someone's honour, or even to send a message to a rival. Even naming categories of violence (murder, rape, youth gangs), demonstrated acts of imposing modern values on the past. Violence in fifteenth century France must be understood in medieval terms.

CHAPTER 1

CONCEPTS OF VIOLENCE

The people of medieval Europe had different conceptions about violence than the modern day West, which shaped their ambivalence towards physical acts of aggression. In fact, the term “violence” was problematic because those in the medieval period used different terminology, which also shaped their perceptions about what constituted legitimate versus illegitimate aggressive acts.⁴² To comprehend how and why medieval people engaged in violence, there must be an understanding of how they perceived violence, especially through language and social norms. In this chapter, ideological conceptions of violence, peace, and justice will be explored to establish the framework for how violence was sometimes deemed legally or extra-legally acceptable, and other times it was not. In the remission letters “violence” was never expressly stated; rather the supplicants were typically described as reacting to aggressors who were behaving in excessive or shameful ways. Narratives within the remission letters used different descriptors for violent acts. Because remission letters were granted to supplicants who had engaged in legitimized violence, certain acts were permissible, and sometimes these acts were an indirect way of policing the violence of others. The community policing we observe within the documents may not have been lawful according to royal law, but the justifications given and the pressure from below to pardon suggest that the community had its own ideas about what was just and unjust. Many of these notions seemed to have triumphed over royal justice regularly.

The royal government framed physical acts of violence as both socially disruptive, and acts that broke the King’s Peace. Equally significant was the actual disruption that violent crimes could make within the community as a whole, which went against the common good of the

⁴² For a discussion on what constituted legitimate versus illegitimate violence, see Gauvard, ‘*De grace especial*,’ 2010; Skoda, *Medieval Violence*, 2015; Brown, *Violence in Medieval Europe*, 2011.

realm. Everyone shared the realm, and it was everyone's responsibility to maintain the peace under the guidance of the king. Kings imposed their power on their subjects as a means of controlling crime. Kings were to set the precedent of moral and just behaviour. Crime itself was compared to a contagious disease, if the kings were to engage in criminal acts, his subjects would become infected and the realm would fall into chaos and ruin.⁴³ Kings embodied the ideal of a father; they were expected to provide safety and security to the realm.⁴⁴ This notion was formally articulated through the body politic theory, a dominant political theory that envisioned the realm as a body where each socio-economic category of society constituted a particular body part, led by the king, its head. Influenced by Aristotelian theory, the body politic worked toward one end, and one end alone: the common good.⁴⁵ As Skoda has shown, such ideas also circulated in the streets in more general terms.⁴⁶ Hence, those who were victims of violence would also seek justice through royally established courts that were designed to limit violence. However, violence could and was used as a just method for engaging in communication with other people.⁴⁷ Violence as a form communication was highly significant, the terms that were used to designate violence were also equally important. The king's ability to police his subjects was contentious, and the community often resorted to policing itself.

Under Philip IV's reign was a shifting conception of the notion of peace among the people. Philip IV's conception of peace moved away from God, his ordinances were concerned

⁴³ Gauvard, *De grace especial*, ' 224.

⁴⁴ *Ibid.*, 236.

⁴⁵ For a succinct discussion of the body politic theory and its relationship to political culture more broadly it is related to politics, see Emily J. Hutchison "Pour le bien du roy et son royaume: Burgundian propaganda under John the Fearless, Duke of Burgundy, 1405-1418" (Diss. York, UK, 2006), 23-31. See also Matthew Sean Kempshall, *The Common Good in Late Medieval Political Thought* (Oxford: Oxford University Press, 1999). For and for its utility in civil war propaganda (and hence, to its uptake by both scholars and), see Hutchison, "Winning Hearts and Minds in Early Fifteenth-century France: Burgundian Propaganda in Perspective," *French Historical Studies* 35, no. 1 (2012), 8-10.

⁴⁶ Skoda, *Medieval Violence*, 53.

⁴⁷ *Ibid.*, 3.

with maintaining peace as human nature with the complete “absence of violence.”⁴⁸ Philip IV started another ideological shift over the course of his reign, and that was the designation of the people’s actions having a direct effect on the common good.⁴⁹ The concept of the common good was originally discussed by Aristotle, and was used to describe an ideal community’s goal of working towards “a high degree of universal morality.”⁵⁰ The idea of the common good was carried through the centuries with the implementation of Roman law, which claimed that the good of the community was greater than the individual.⁵¹ By the late medieval period all acts of violence as being an act of aggression within the community could be framed as an attack on the whole. Royal customs argued that God entrusted maintenance of the common good to the kings and therefore it was the duty of the kings to maintain peace.⁵² These concepts of peacekeeping and the common good were intended not only to persuade the people of France to limit their violence, but the kings were also attempting to delegitimize violent acts that were deemed to be damaging to the realm as a whole. The constantly changing conceptions of peace within the French realm directly correlated to the shifting conceptions of violence.

The French kings increasingly limited the legitimate acts of violence within the realm, while also making “peace” something that could be observable and attainable. Although violence at the community level served a purpose of communicating a message, it was also disruptive to the greater fabric of society. The King’s Peace was a concept that was meant to ensure that the people of the realm would behave according to royal and ecclesiastical rules. Philip IV of France (r. 1285-1314) saw the need to limit violence among his people who he had been divinely

⁴⁸ Firnhaber-Baker, “From God’s Peace to the King’s Order,” 22.

⁴⁹ *Ibid.*

⁵⁰ Hutchison, “*Pour le bien du roy et son royaume*,” 26.

⁵¹ *Ibid.*, 27.

⁵² Firnhaber-Baker, “From God’s Peace to the King’s Order,” 23.

ordained to protect.⁵³ Parts of his decrees were an attempt to limit private wars, so that if the King was at war, no private wars could be started. Philip also made violence against other individuals including “homicides, arson, and attacks on farmers and plowmen” forbidden.⁵⁴

It can be argued that the people of France were engaging in self-help justice through private wars, but the same justification was applied to those who killed under the guise of vengeance. A distinct shift in the rhetoric of the pardon letters occurred during the fourteenth century where the narrative shifted to an affective, emotional, tone that legitimized the use of violence in vindictive acts.⁵⁵ The Hundred Years’ War (1337-1453) served to diminish the power of the king and therefore the royal authority. After the English captured King John II of France, the realm turned away from the crown and began to settle disputes without royal intervention.⁵⁶ Justine Firnhaber-Baker argues that the significant rise of pardon letters being granted during the War, and that they remained high through to the reign of Charles VI (1380-1422) showed that the populace was respecting the rules of the realm, but they did not fear the outcome of their actions.⁵⁷ However, several of the pardon letters studied for this thesis noted that the supplicant had fled the county for fears of the rigors of justice.⁵⁸

As notions of the importance of peace to protecting the common good began to take root in late medieval France, there needed to be legitimate ways of attaining justice for perceived wrongs. The term “just” can be defined as “acting or done in accordance with what is morally right or fair.”⁵⁹ As such, “justice” referred to the attainability of what was just, the need to right a wrong if it was done justly. The French people needed an outlet where they could attain

⁵³ Brown, *Violence in Medieval Europe*, 259.

⁵⁴ *Ibid.*

⁵⁵ Firnhaber-Baker, “From God’s Peace to the King’s Order,” 139-40.

⁵⁶ *Ibid.*, 148-9.

⁵⁷ *Ibid.*, 149.

⁵⁸ See, Paris, Archives nationales de France, JJ 165 fol. 58r.-58v., JJ 165 fol. 42r.-43r., JJ 165 fol. 73v.

⁵⁹ Katherine Barber, ed., *The Canadian Oxford Dictionary* (Don Mills: Oxford University Press, 1998), 767.

justification for violent attacks against their bodies and their kin. Justice was a public spectacle, just as violence was. Punishments imposed by the courts were meted out in the public sphere for all to witness.⁶⁰ Royal authorities' attempts at controlling violence provided different venues for pursuing justice; this ultimately, but slowly, led to an increase of the use of the court system to settle disputes among rivaling parties.⁶¹ Justice, then, was highly significant to the study of the pardon letters because the supplicant had to defend why their violent actions were a form of "justice," rather than a crime.

Violence as a word was not commonly used, rather the term *violentia* was applied to "disordering brutality," whereas the word *vis* was used to describe "physical force ... to reinforce social order."⁶² The subtle and nuanced differences between *violentia* and *vis* demonstrated the ambivalence medieval people had towards violence. *Violentia* was a disordering mechanism that could be ordered and rectified through *vis*. This trend was apparent in the pardon letters where an aggressor was acting with *violentia* and the supplicant used *vis* to regain control of the situation. These words also showed that in some cases violence was actually a useful tool. Some terms associated with violence were only used to designate upper class or governmental violence, such as the term "cruel" which was used in the context of discussing tyranny.⁶³ The ideal king was the embodiment of peace, justice, and the common good, his role was not only to govern the realm according to these ideals but to also ensure that his subjects behaved accordingly.⁶⁴ The legal definitions for many laws surrounding violence did not conform to laymen's understandings of the physical act; for example there was a law against cutting the hair of prostitutes because it was

⁶⁰ Smail, *The Consumption of Justice*, 22.

⁶¹ *Ibid.*, 5.

⁶² *Ibid.*

⁶³ Gauvard, *Violence et ordre publique*, 12.

⁶⁴ Hutchison, "Pour le bien du roy et son royaume," 26.

deemed excessively cruel. However those who engaged in this violent act, usually university students, did so because they believed it was “a form of moral policing.”⁶⁵

Labels not only served to name and categorize different forms of violent acts, they were also used to denigrate. To be labeled a criminal would destroy an individual’s reputation beyond repair and ostracized them from the community.⁶⁶ Labels were used to spread a fear of crime among the communities of France, a tactic employed by the king in an attempt to diminish the number of violent crimes occurring. This propaganda tool served to spread a fear of crime and minor transgression came to be associated with the most heinous acts.⁶⁷ The use of labeling crimes and violence served to shape public opinion of not only what constituted a violent and egregious act, but also who were the most likely suspects of committing crimes.

There were very small differences in the words used to designate specific forms of violence, again leading to more complicated understanding of what were legitimate and illegitimate uses of physical acts of aggression, also reinforcing medieval ambivalence. In Beaumanoir’s text there were nuanced differences, such as the word *ferir*, which meant to hit someone once, but *battre* was to punch several times.⁶⁸ Terms related to death (homicide) were often used to designate the severity of the injury, such as causing bloodshed. Examples taken from Beaumanoir’s work included *navrer* where there was a wound, or the term *afoler*, which meant that the damage caused in a physical altercation needed the attention of a doctor.⁶⁹

The subtle differences in language also shaped the narrative of the pardon letters. When policing each other with violence, medieval people had to ensure their actions could be

⁶⁵ Skoda, *Medieval Violence*, 43.

⁶⁶ This was the case in the trial for the murder of the Duke of Orleans – he was labeled a criminal post-mortem and his character was destroyed. See Hutchison, “Defamation: a Murder *more Foul*” (forthcoming).

⁶⁷ Gauvard, “Fear of Crime in Late Medieval France,” in *Medieval Crime and Social Control*, eds. Barbara Hanawalt and David Wallace, 1-48 (Minneapolis: Minnesota University Press, 1999), 17.

⁶⁸ Skoda, *Medieval Violence*, 29.

⁶⁹ *Ibid.*

legitimized through the appropriate terms such that it was deemed just in the eyes of the community *and* royal authority. In one remission letter the aggressors were accused of “mutilating,” “beating,” and inflicting blood wounds on their victim.⁷⁰ After the initial attack, the aggressor was killed with an axe to the head upon leaving church by the supplicant. The latter fled the country for fears of the rigors of justice.⁷¹ This pardon demonstrated violence through retaliation that was validated in the remission letter. The message being communicated to the community through the act of granting this pardon was that policing violence with violence could be acceptable under the right circumstances. However, it was up to members of the community to clamor for a pardon in the first place. Moreover, it should be noted from this particular letter that the king’s justice was “rigorous” enough to strike fear into transgressors. This demonstrated that there was at least an appreciation for the power of royal justice even if the communities across France frequently ignored it in the first place, or attempted to override it in remission cases.

The *Coutumes de Beauvaisis* were not limited to violent acts that only resulted in death. Beaumanoir specifies various acts of violence and whether they were deemed acceptable forms of mediation for disputes. Bloodshed determined the severity of the violence that may have been inflicted. For example, if one person struck a blow against another and there was no blood a monetary fine was to be paid to the victim, depending on the status of the abuser. Where the attack took place also factored into the fine that was to be paid, if the attack occurred at or on route to the market the fine was much higher because these were believed to be safe areas of passage.⁷² Not only was Beaumanoir describing the monetary fines that were to be paid for those involved in physical disputes, but also unintentionally outlining where violence was not

⁷⁰ Paris, Archives nationales de France, JJ 165 fol. 42r. – 43r.

⁷¹ *Ibid.*

⁷² Philippe de Beaumanoir, *The Coutumes de Beauvaisis*, 304-305.

acceptable, implying that there were other areas of a city where physical acts were more tolerable.

In cases of domestic abuse, there was a fine line between what was considered to be violent, and what was deemed to be ordering. Domestic violence was legitimate and used to maintain the ordering of the household, as an extension of the patriarchy that had been established and reinforced in the medieval period. The most significant feature of acceptable domestic abuse was that it was conducted primarily in the intimate spaces of society, rather than the collective spaces.⁷³ In an early Norman legal text, the definition of domestic abuse was only when the husband struck his wife in excess or without provocation; otherwise, husbands could legitimately strike their wives in order to correct behaviour.⁷⁴

In other legal writings of domestic violence, specifically Beaumanoir's writings, there were varying degrees of acceptable and unacceptable forms of violence that a husband could engage in. When beatings involved no hands, no foreign objects, and did not result in serious injury, bloodshed, or death they were deemed to be acceptable and women were expected to take them without complaint.⁷⁵ This definition used by Beaumanoir only served to further prove the ambivalence medieval French people had towards violence. To beat a woman (*battre*) was acceptable, as long as the beating did not cause death or beating to near death (*mort ou mehaing*). However, there was no set rule or indication of what constituted mutilation as opposed to a severe beating.⁷⁶ In court proceedings, to designate an act as violent was contingent on several

⁷³ Skoda, *Medieval Violence*, 195.

⁷⁴ *Ibid.*, 205.

⁷⁵ *Ibid.*, 204.

⁷⁶ *Ibid.*

factors, namely whether there were weapons used and the specific physical actions that had occurred during the event.⁷⁷

The language used in the remission letters was also highly significant. The supplicant had to plead their case to ensure that their recollection and action during the violent event was legitimized. Emotions were part of this constructed narrative. Although both secular and religious laws condemned the sudden eruption of anger, in some remission letters the victim was often enraged and acting aggressively towards the supplicant resulting in a justifiable homicide.⁷⁸ In one remission letter a father was simply protecting his son from an assailant who was arguing and being aggressive to the supplicant.⁷⁹ The father attempted to deescalate the situation but only enraged the aggressor further. Therefore, the aggressor ultimately “deserved what was coming to him.”⁸⁰ Aggressors were also labeled as villainous in the pardon letters, and by classifying them this way meant that there was further justification for the homicide.⁸¹ Of eleven remission letters studied for this project, five of the letters made reference of villainous acts.⁸² However, of the five letters, four of the supplicants were granted the pardon because they had not committed any villainous acts before their act of aggression that led to a death requiring the pardon.⁸³

Manipulation of the court system and the issuing of pardons were commonly employed methods for attaining some semblance of justice. However, the community also overtly rejected the royal authority’s attempts to control violence. An ordinance issued by Charles VI in 1388,

⁷⁷ *Ibid.*, 220.

⁷⁸ *Ibid.*, 33.

⁷⁹ Paris, Archives nationales de France, JJ 165 fol. 58r. – 58v.

⁸⁰ *Ibid.*

⁸¹ Gauvard, *Violence et ordre publique*, 12.

⁸² See: Paris, Archives nationales de France, JJ 165 fol. 13r., JJ 165 fol. 11v., JJ 165 fol. 58r. – 58v., JJ 165 fol. 44v. – 45v., JJ 165 fol. 42r. – 43r.

⁸³ Paris, Archives nationales de France, JJ 165 fol. 13r., JJ 165 fol. 11v., JJ 165 fol. 58r. – 58v., JJ 165 fol. 44v. – 45v.

described rebellions and challenges to royal authority by people at the community level.⁸⁴ The community had been attempting to thwart the authority of the royally sanctioned officers who were charged with arresting and bringing to justice criminals from the community. Charles VI stated that upon attempting to arrest criminals, many of his officers were gravely injured, beaten severely, mutilated, injured, some even killed and slain.⁸⁵ These acts were deemed to be acts against the king, as a personal insult to his authority as the divinely ordained ruler of the French people. In the ordinance he stated that when the subjects attempted to react violently to the Justices' attempts to arrest wrong doers that it was a great "wrongdoing to Us in body and in goods."⁸⁶ The language of this ordinance was extremely significant because the king understood the violence used by the subjects as a direct attack to his body, and his realm. The nobles and commoners alike were commanded through the letter to behave and accept their punishments should they be arrested, otherwise they would suffer severe punishments – punishments that would be so severe that they would stand as an example to all.⁸⁷ Although attempts by the Crown to centralize power from Paris, with the Parlement de Paris had been occurring since the fourteenth century, this royal letter indicated that the process was not widely accepted throughout all levels of the community. The populace reacted with violence to the overt attempts of the royal officers to arrest, punish, or execute criminals.

However, while the community accepted certain forms of violence, homicide for example, they also actively rejected and feared other forms of violence. Murders, among other egregious crimes such as incest, arson, or robbery, were seen as destroying social order to the

⁸⁴ *Ordonnances des Rois de France de la troisième race recueillies par ordre chronologique*, vol. 7 (Paris: L'imprimerie royale, 1755), 197.

⁸⁵ *Ibid.*, 197. The letter describes the sergeants and officers as "ont esté grandement injuriez & villenez, & très-énormement batus, mutilez & navrez, & les aucuns mors & occis."

⁸⁶ *Ibid.*, 198. "sur quanques ilz se pevent meffaire envers Nous en corps & en biens."

⁸⁷ *Ibid.*, 198-9. "punissiez tellement, corporellement ou autrement, que autres y prengnent exemple."

medieval people, and there was an increased demand for royal authority to intervene.⁸⁸ The community claimed to be fearful of violence, but their rebellions against the king's attempts to impose justice through his arresting officers demonstrated the ambivalence towards violence held by the people of France. Royal pardons provided another example of the inconsistencies in the royal attempts to impose punishments for violent crimes. Those accused of crimes could request pardons on the grounds that the king was impotent in his duties to keep his subjects safe and therefore the people had to resort to other means of protection.⁸⁹

Violence and language were extremely significant to how the populace of France understood violent acts. The subtle nuances of different words that described aggression only served to enhance the ambivalence of the people. The king, for his part, actively attempted to eradicate violence at the street level, however, his attempts were often inconsistent with community conceptions of justice. The narratives of the pardon letters highlight the importance of language, and how the community could legitimize their violence with the approval of the king.

⁸⁸ Claude Gauvard, "Fear of Crime," 1.

⁸⁹ Justine Firnhaber-Baker, *Violence and the State in Languedoc, 1250-1400* (Cambridge: Cambridge University Press, 2014), 139.

CHAPTER 2

MURDER AND HOMICIDE

Violent acts took many forms and had many different results. As noted in the previous chapter, a physical assault could result in a range of injuries, from minor to severe, and the gradient of severity had an impact on how the acts of violence were perceived, policed, and punished. Some violent outbursts could have had serious ramifications, including death. In this case, the act of violence was deemed by royal authority to be a capital offense, punishable by execution.⁹⁰ In this chapter, homicide as a form of policing violence with violence was investigated. Medieval French people condoned the use of violence, even when it resulted in death, when the aggressor was acting against societal norms, or was of ill repute, despite any damage to the common good. Homicide was used as a form of policing the violent, aggressive, acts of others. Often, homicides occurred as the result of someone questioning someone else's honour requiring that that person redeem themselves. Homicide, therefore, was integral to policing the socially unacceptable violence of others. While murder and homicide may seem to be synonymous, they held very different meanings for those of the medieval world. The distinction between homicide and murder required cooperation between the royal government and the community to regulate the seemingly similar acts of violence. However, the French Crown attempted to limit the predominance of violence in the streets by imposing royal law and the court system in which to try such cases, the communities of the French realm did not readily abandon their customary and cultural practices of violence as a form of negotiation. This produced some grey areas for the punishment of homicide and murder, mainly because there was much ambivalence from within the communities about the killings they witnessed within their local communities.

⁹⁰ Hutchison, "Defamation a Murder *More Foul*," 5.

Furthermore, there were loopholes in the king's law, which also suggested a great deal of uncertainty regarding homicide/murder. As the letters of remission illustrated, there were plenty of ways by which pressure from below (the community) could lead to a pardon of what was initially deemed by the crown to be murder. For these reasons, the royal government and the community appeared to have been in constant negotiation. Indeed the *lettres de rémissions* were one example of this process; the pardons demonstrated a balance between community values and legal recourse.

The significance of community talk and the relationship between royal authority and community perceptions of violence were exemplified in a remission letter granted to a wife after her lover slayed her husband. The letter (1410), presented the case of a man named Rebel de Boure had pursued Jehanne du Hamel, the wife of Jehan de Saint Ligier.⁹¹ Apparently, Jehanne du Hamel eventually succumbed to Rebel's advances, due to his persistency, and Rebel "knew her carnally." Jehan de Saint Ligier had become suspicious of his wife's activities and beat her severely. In November, Jehanne ran into Rebel and told him about the beating. Possibly angry at the beating, he asked where the husband was and if he was alone; Jehanne told him her husband was alone at the mill, but she noted in her supplication that she did not know Rebel intended to kill her husband. Jehanne left Rebel by taking "a different path home" to begin her chores. That same day when Jehan de Saint Ligier was found killed the neighbours gathered and among them was Rebel.⁹² Jehanne was brought to the scene and was hurt and grieving when she saw her husband. A lieutenant was called to investigate, as per the law, and the community told him that Rebel and Jehanne were suspected of killing the husband. For the community to successfully implicate Jehanne and Rebel in the murder of the husband served to demonstrate the weight, or

⁹¹ Paris, Archives nationales de Paris, JJ 165 fol. 58 r. – 58 v. For this and what follows.

⁹² *Ibid.*, "tue et mundry."

gravitas, that was placed on the value of community talk. The *fama* that was circulating as a result of this killing was enough to have Rebel and Jehanne taken to prison. Later Jehanne was moved to another prison. Eventually friends were able to intervene with the royal authority, Jehanne was pardoned, and had her reputation restored, and her property, and goods returned.

This pardon was significant because of the unique circumstances surrounding the case, but like all letters it was frustrating because of what it omitted from the record. Whoever brought the information to the lieutenant remained a mystery. Jehanne had been accused by witnesses as having been involved in the murder of her husband, however her pardon demonstrated that there were enough people who could argue that she was innocent and secure her release. This in itself was indicative of the ambivalence a community had toward acts of violence. Jehanne had been adulterous in her marriage, which it could typically be assumed that it would have adversely affected her reputation. Perhaps this was why those who informed the king's lieutenant chose to do so rather than leaving her out all together. However, she had her reputation formally restored by royal decree, and was cleared of the charges laid against her. This was a confusing situation. Does this suggest that her adultery was less important than the beating she received? It seems unlikely given that beating wives was justifiable in contexts like maintaining patriarchy when masculinity was questioned. Historians were left to wonder whether Jehanne's reputation as an adulteress was ever truly repaired when she returned to her community. Furthermore, there was no mention of what happened to Rebel de Boure. It is most likely that he remained in prison because he would have committed murder, if in fact he were found guilty.

This *lettre de rémission* was evidence of the ambivalence towards violence held within the community and royal authority. Community policing was evident in several areas of this remission letter. First, Rebel felt it necessary to inflict harm on the husband in retaliation for his

lover's husband beating her so severely. Was the husband's beating deemed excessive by those who advocated for her? Can this explain why Jehanne was ultimately pardoned? There was a fine line between excessive domestic violence and disciplinary violence. But there were thresholds on what could be deemed acceptable physical punishment of wives – weapons were not to be used.⁹³ The ambiguity in this case begs the question, was her husband disliked within the community, and was it because of the severity of his ordering violence? Rebel's vengeful act of violence not only resulted in the death of the husband, but also communicated that at least he felt it necessary to police excessive domestic abuse. Perhaps Jehanne's pardon suggested the community agreed. However, on the other hand, the community initially denounced Jehanne and Rebel, demonstrating that her peers either believed this homicide to be illegitimate or, were at the very least acquiescing to the rigours of royal justice. And yet Jehanne had enough people who rallied in support of her release that eventually she was pardoned. This was in keeping with other cases: women tended to have low conviction rates, their crimes were not as feared by the community.⁹⁴ Perhaps she was arrested in the first place because the community felt compelled by the law to denounce her, knowing she would be either acquitted or pardoned. Villagers in England, for example, were also subject to fines if they did not report a crime, while knowing that their peers would be acquitted of any charges if they were of good repute.⁹⁵

Philippe de Beaumanoir's work outlined gross societal ambivalence towards homicide and murder that was held by the community and royal authority. According to Beaumanoir, murder was "when someone [killed] someone else (or [had] them killed) premeditatedly between sunset and sunrise, or when he [killed] someone or has them killed during a truce or a guaranteed

⁹³ Skoda, *Medieval Violence*, 200-221.

⁹⁴ Hanawalt, 'Of Good and Ill Repute,' 7.

⁹⁵ *Ibid.*, 10.

peace.”⁹⁶ Murder, therefore, was under the cover of darkness where there could be no witnesses to the crime. It also necessitated premeditation, organization, and preparation like in cases of poisoning or an ambush.⁹⁷ There would have been no opportunities for the victim or witnesses to raise the hue and cry, nor could there be anyone to defend the victim.

While both homicide and murder were thought of being equally reprehensible, homicide could be justified under the right circumstances, otherwise they were both punished with death. According to Beaumanoir, homicide “[was] when someone [killed] someone else in a fight, for example, it [happened] that a disagreement [arose], and from the disagreement [came] harsh words, and from the harsh words the fight in which people often get killed.”⁹⁸ At the core of disagreements was honour. One’s honour was integral to their identity, and when one’s honour was questioned or diminished, especially in public, this was deemed a great insult.⁹⁹ Murder and homicide, although seemingly the same, held very different consequences for all those involved. In the case of Jehanne and Rebel, Jehanne’s pardon letter was essentially her narrative of the homicide. She had to ensure that she appeared to be a victim of excessive domestic violence, but also that she had nothing to do with her husband’s death. It seems to have worked for her, for despite the fact that she had been having an affair and it was her lover who allegedly killed her husband, she was granted a pardon.

Past historical interpretations of women committing violent crimes was that they were acting in abnormal ways against the social construct of feminine behaviour, but recently Trevor Dean has argued that women took part in violent crimes under the principles “of honour and

⁹⁶ Beaumanoir, *The Coutumes de Beauvaisis* 303.

⁹⁷ Carbasse, *Histoire du droit*, 370.

⁹⁸ Philippe de Beaumanoir, *The Coutumes de Beauvaisis*, 303.

⁹⁹ Gauvard, *De grace especial*, 734.

shame,” the same as their male counterparts.¹⁰⁰ Crime rates among women were relatively low, compared to men. Over the course of the reign of Charles VI (1380-1422), only four percent of royal pardons were granted to women for “serious crimes” committed in Paris. In other areas of France, including Lyons and Manosque women committed about twenty percent of the crimes.¹⁰¹

Men and women committed crimes differently. Women were believed to tend more towards non-violent crimes, mostly theft of minor items, such as food and clothing.¹⁰² When women were accused of capital crimes, they were not for homicide, but arson, witchcraft, and treason.¹⁰³ When women did participate as aggressors in violent crimes, they had fewer homicide convictions because although they did take part in violent brawls, women usually did not incorporate weapons, relying on their hands, feet, and teeth resulting in relatively minor injuries.¹⁰⁴ Although men and women were engaging in violence differently, honour and reputation were at the core of their acts. Women, like men, would defend their honour through violence, when necessary. One case of a fight between two eighty-year-old women resulted in a pardon letter being granted after one of the women died illustrated this point well. This was a conflict over personal honour. In February 1410 Jehanne de Quesne, who had been residing in the house of an abbot with her husband for about seven years, got into a verbal altercation with another woman named Jehanne de Phart.¹⁰⁵ According to the document, Jehanne de Quesne had no prior disturbances, debates, or riots in the home. One morning Jehanne de Quesne was doing something around the house (though we do not know exactly what) when she was approached by Phart and was told that she was doing it wrong. Quesne answered that she was unaware of any

¹⁰⁰ Trevor Dean, *Crime in Medieval Europe* (London: Pearson Education, 2011), 77.

¹⁰¹ *Ibid.*

¹⁰² Hanawalt, ‘*Of Good and Ill Repute*,’ 7.

¹⁰³ Gauvard, ‘*De grace especial*,’ 300-1.

¹⁰⁴ *Ibid.*

¹⁰⁵ Paris, Archives nationales de France, JJ 165 fol. 44 v. – 45 v. For this and what follows.

issues, but Phart continued the verbal altercation accusing Quesne of having carnal knowledge of the abbot of the house, calling her a *fausse macquerelle*, which translates into a prostitute.¹⁰⁶ Phart continued to hurl insults at Quesne, to the point where the latter was so infuriated by the injuries and insults that she grabbed Phart by the neck and attempted to strangle her very hard and beat her with her hand several times. Quesne chose to react with violence, which would have been deemed legitimate, because her honour had been attacked through verbal violence from Phart. This use of physical violence was in the heat of the moment and intended to communicate to Phart that her insults were inappropriate and unfounded. Quesne's husband, Guillaume, arrived during the altercation, but notwithstanding the physical attack or his arrival, apparently Phart continued her barrage of insults. According to the document, the physical assault also continued. Phart attempted to raise the hue and cry that she was being "murdered and killed," and the reader of the pardon was led to believe that this was what led to the end of the physical attack by the married couple. Phart fell ill and died in her bed eight days later. The supplicants left the country because they did not feel they would get justice. Phart was very weak and her death could not be proven to have been the result of the beating, so Quesne and her husband were pardoned. While Beaumanoir wrote that physical and verbal altercations were to incur a monetary fines, Jehanne de Quesne and her husband fled the country because they feared that they would be punished to the fullest extent of the law.¹⁰⁷ Quesne had been insulted, and in a moment of anger attacked Phart. But because the attack could not be directly attributed to the death, the Quesnes were pardoned for the violence. Whether the death was a direct result of the attack, illness, or age, the rhetoric of the remission letter suggests that the courts were passing

¹⁰⁶ Edna Ruth Yahil, "A Rape Trial in Saint Eloi: Sex, Seduction, and Justice in the Seignorial Court of Medieval Paris," in *Voices from the Bench: The Narratives of Lesser Fold in Medieval Trials*, ed. Michael Goodich, 251-271 (Gordonsville: Palgrave Macmillan, 2006), 259; translates "macquerelle" as a procuress, or prostitute.

¹⁰⁷ Beaumanoir, *Coutumes de Beauvaisis*, 305-6.

responsibility of the death to causes that could not be proven. This letter also served as an example of the unwillingness of courts to charge potential criminals to capital crimes. Furthermore it demonstrates how central honour and reputation was to community members. Jehanne Quesnes attacked Jehanne Phart out of a desire to protect herself from such harmful insults to her reputation. To be accused of sexual indiscretions at any age was, for a woman, social anathema.¹⁰⁸

Within the densely populated urban setting, streets were the veins of the city; people were traveling around through the streets to markets, or to run errands, and there was constant communication, both verbal and physical.¹⁰⁹ Streets as an arena of communication also meant that there would be high rates of violence because it was thought to communicate specific messages to those involved but also to witnesses.¹¹⁰ For example, in a pardon letter granted to Huguet Brachet, the scene of the homicide occurred in the streets.¹¹¹ Huguet was apparently “a poor man who had a wife and children”.¹¹² The hue and cry was raised and he was alerted by some of his friends that his son was being beaten. When Huguet and his friends arrived to where his son was being beaten, Cauchon (a teenage boy) ran at Huguet with sword drawn and accused Huguet of denying God, a great insult to Huguet’s honour. Huguet Brachet said that was not true and that it gave him great displeasure. Cauchon had said such things. Yet Cauchon continued to argue and approached with his sword. Huguet was attempting to deescalate the situation but Cauchon did not stop being aggressive so, according to the pardon, he deserved what was coming to him. Huguet and his friend Neron had clubs that they used to beat Cauchon. Huguet hit him twice in the head, and Neron hit him at the nape of the neck and in the head. One of the

¹⁰⁸ This is illustrated particularly well below in Chapter 3 “Gendered Violence.”

¹⁰⁹ Skoda, *Medieval Violence*, 51.

¹¹⁰ *Ibid.*, 53, 3.

¹¹¹ Paris, Archives nationales de France, JJ 165 fol. 58r. – 58v. For this and what follows.

¹¹² *Ibid.*, “pauvre home... charger avec femme et enfants.”

defenders took the sword away from Cauchon so he could not use it against Huguet. There was no visible harm done to Cauchon and he went home, but the next day he died. Huguet fled the country, when asked about his departure he said that he doubted he would gain justice. Huguet was pardoned because he was an honest man who and had a good reputation, and it was just by fortune that Cauchon had died.¹¹³ Cauchon was also the aggressor, and he and Huguet had never had conflict before, there had only been an incident because Huguet's son was being beaten.

This pardon made mention of Huguet Brachet being a poor man. The inclusion of his socioeconomic status was unique for the sample of pardon letters scrutinized for this thesis. It could also have been a method of embellishment the notaries used to make the supplicant sound like a victim. Huguet was using violence in self-defense; Cauchon had been attempting to physically harm Huguet and his son. Cauchon had instigated a violent attack, not only against Huguet, but also partaking in an assault against Huguet's son. Huguet was put in the position of having to defend his son, himself, and his honour after Cauchon had questioned Huguet's piety – a significant insult to the character of Huguet. Cauchon was depicted as being in a state of rage, where the only way to stop his violence was through further violence. Cauchon's aggression was policed to establish that his actions were unacceptable. He was warned several times in an attempt to stop his rampage, which ultimately resulted in his death. Honour and reputation also lay at the heart of this justifiable homicide. This was a legitimate killing, even if the rigors of the law demanded it be prosecuted.

In Beaumanoir's writing murder and homicide were clearly defined, however, beatings were more fluid, especially whether blood had been shed. He suggested that if the victim bled from broken skin (not a mere nosebleed which was deemed to be insignificant) and the attacker had something in their hand then the attacker was to be arrested and held until officers were

¹¹³ *Ibid.*, "aucun villain cas ou blasmes ou reprouche."

certain that the victim would survive the attack.¹¹⁴ Should the victim survive the penalty imposed on the aggressor was a monetary fine. But, if the victim were to die as the result of the attack, the transgressors were to be charged and punished under the auspices of homicide.¹¹⁵ Although Beaumanoir did not specify the time of day of an attack leading to death, the designation of the death as homicide would suggest that these beatings were often the result of brawls and therefore not murder. The *Coroner's Rolls* in England contained one case of two men where "strife arose between them," and one of the men slit the throat of the other man with a knife.¹¹⁶ The aggressor confessed his guilt and was given the option of leaving the country rather than being charged as a felon.¹¹⁷ Similar to the *Rolls* the French remission letters were granted to many instances of those who killed others in physical altercations, for example the case of Jehanne de Quesne and Phart, the 80 years olds who got into a verbal and then physical brawl.¹¹⁸

Descriptions of homicide throughout Europe were relatively homogeneous, demonstrating that there were common sentiments towards violence and death in various medieval realms. In Marseilles there were punishments outlined specifically for "homicides committed illicitly."¹¹⁹ The inclusion of the word "illicitly" suggested that there were homicides that could be committed licitly. The term "homicide" used in the law was an all-encompassing violent act to designate "anyone [who] shall have assaulted or wounded or mortally injured anyone else in Marseille."¹²⁰ Homicide in Marseilles meant something very different than it did in Beauvaisis, but both descriptions of homicide demonstrated that it was a violent act that resulted in injury and in some cases death. Those criminals who fled the region were not

¹¹⁴ Philippe de Beaumanoir, *The Coutumes de Beauvaisis*, 305.

¹¹⁵ *Ibid.*

¹¹⁶ Daniel Lord Smail and Kelly Gibson, eds. *Vengeance in Medieval Europe: A Reader* (Toronto: University of Toronto Press, 2009), 414.

¹¹⁷ *Ibid.*

¹¹⁸ Paris, Archives nationales de France, JJ 165 fol. 44v.-45v.

¹¹⁹ Smail and Gibson, *Vengeance in Medieval Europe*, 348.

¹²⁰ *Ibid.*

permitted to return until they had paid the associated fine to the family, those who stayed in Marseilles and were captured by authorities, or those acting on behalf of the authorities, were punished according to the crimes committed.¹²¹ In other regions of France, including Touraine and Anjou similar laws pardoning violence existed, for example if a man killed another in the fight, but before the victim died he inflicted harm on the living man, the living man was not to be hanged.¹²² But, if the family of the dead man contested the judgment and the injury, then there would be further investigations and could lead to a battle where the loser would be hanged.

A pardon letter granted to Jehan Fregier, a young man of 22 years old who was out drinking with his friends around nightfall, can be directly correlated to the customary laws of Touraine and Anjou.¹²³ Jehan was not in the mood to drink, but his friend Cybeust forced him to through insults and peer pressure. After Cybeust had had enough to drink, the bar matron, Mme. Gaillaud cut them off. At this point Cybeust drew a sword and threatened to beat the woman with Badelair (the sword's name). When Jehan saw that Cybeust wanted to beat Mme. Gaillaud he took the blade by his hand and received a cut to his palm. Jehan successfully stopped Cybeust from harming the woman, but Cybeust then turned his anger towards Jehan and threatened to kill him. Jehan was put in a room and separated from Cybeust, and several tavern patrons restrained Cybeust so Jehan could leave. But Cybeust followed Jehan out of the hostel and hit Jehan twice with Badelair, once on the head and once on his arm. The second blow did no damage. Jehan attempted to retreat from Cybeust by going to his brother's house, but Cybeust followed him with Badelair in hand. At this point Jehan grabbed a stick and beat Cybeust on his hand and head. Cybeust died. Not only had Cybeust started the physical attack twice, but he had also harmed Jehan when he was attempting to protect the woman in the tavern. Following the

¹²¹ *Ibid.*

¹²² *Ibid.*, 331.

¹²³ Paris, Archives nationales de France, JJ 165 fol. 96r. – 96v. For this and what follows.

customary laws of Touraine and Anjou, this homicide would have been justifiable. This applicability of regional laws to other areas of the realm demonstrated that France, while not a unified country at this time, had relatively homogenous laws concerning violence.

Other regions throughout medieval Europe, such as England, had specific laws surrounding homicide. Similarly to rules of homicide and murder in France, England also made distinctions between the two acts. Royal laws in England had been established in the 1220s and revised several times by royal advisors.¹²⁴ These laws were intended to supersede all customs and regional laws bringing all jurisprudence under the English crown. Homicide was designated for those acts where someone was killed in self-defense, or through negligent actions in daily tasks.¹²⁵ For example, if a tree was cut down and fell on someone, this case may have been deemed a homicide if the person accountable had not taken the necessary precautions. Punishments for homicide in England varied depending on liability and whether the slaying was deemed just. A significant characteristic to English law was that those who were guilty of homicide were not only punished corporally, but also spiritually and had to repent through penance.¹²⁶ Even though homicide was deemed an act that involved breaking the king's peace, there were still exceptions made for those who could justify their acts.¹²⁷ There was a special mention of the use of homicide to attain justice: "for homicide committed in doing justice, with a proper and lawful intention, no punishment [was] to be inflicted."¹²⁸ Homicide in England, like France, could be justified and acceptable under certain circumstances. These loosely defined structures surrounding homicide exemplified the uncertain nature of violence within society.

¹²⁴ Smail and Gibson, *Vengeance in Medieval Europe*, 317.

¹²⁵ *Ibid.*, 318-9.

¹²⁶ *Ibid.* Corporal punishments were not listed.

¹²⁷ *Ibid.*, 317.

¹²⁸ *Ibid.*, 319.

German customary laws from the early thirteenth century mirrored those of France, as well as the royal laws of England. In violent crimes where someone was beaten, the aggressor had to appear to the court and confess their crime before being designated an outlaw.¹²⁹ If someone were to receive the title of outlaw, then they were to be punished with death upon capture. But those who were outlaws and not captured, but forfeited themselves to the authorities were granted pardon and their former rights restored. Killing was also deemed appropriate if a challenge had been requested and accepted by both parties. But death was only allowable under the condition that skin was not broken.¹³⁰ This rule surrounding bloodshed can be related back to Beaumanoir's description of the severity of assaults that were determined if blood had been spilled. Germany had explicit and severe punishments for those who were charged with violent crimes. Criminals who engaged in "murderous arson" were to be "broken on the wheel."¹³¹ This meant that the criminal was bound to a cartwheel, and with an iron bar was beaten with the intent of breaking the bones.¹³² German customary laws also required that those who were guilty of rape, abductions, assault, or violated the peace were to be beheaded.¹³³ In cases where the person was acting in self-defense and slayed someone, they were to go right to the courthouse and explain their actions.¹³⁴ Upon their confession, a monetary fine was paid by the confessor and the kin of the slain man had to claim the money.¹³⁵ Much like France and England, Germany further exemplified the distinctions between the slaying of a person and under what conditions it was acceptable.

¹²⁹ *Ibid.*, 326.

¹³⁰ *Ibid.*

¹³¹ *Ibid.*, 327.

¹³² Alexander M. Burrill, *A Law Dictionary and Glossary*, vol. 2, 2nd ed. (New York: Baker, Voorhis & Co., Law Publishers, 1870), 620. The authors also argue that this punishment was used in France until the French Revolution in 1789.

¹³³ Smail and Gibson, *Vengeance in Medieval Europe*, 327.

¹³⁴ This was not unlike the case of Estienne who had attempted to rape Jehanne but failed, went to the court after Jehanne had attacked him and in retaliation he killed her (Paris, Archives nationales de France, JJ 165 fol. 11v.).

¹³⁵ Smail and Gibson, *Vengeance in Medieval Europe*, 327.

These laws from throughout France and other regions demonstrated the overt attempts by those in position of royal authority attempting to police the violent behaviours of the members of local communities. The efficiency of these laws and the process of enforcement, or punishment, was however, questionable. Doubt in the royal government's efficiency arose in part from the great number of pardon letters granted by the French throne to those who had committed violent crimes. Moreover, as Hanawalt and Smail have both shown in their respective works, it was possible and common for local communities to take some control in whether they would persecute transgressors, and how by using the judicial system to their advantage.¹³⁶ Jehanne and Rebel's case demonstrated the ambivalence towards the use of judicial processes. Although the community denounced Jehanne du Hamel initially, they also defended her and urged for her release from prison resulting in her royal pardon.

Additionally, in late medieval Europe, killings were not uncommon features of day-to-day life. In densely populated urban settings, street violence was fairly regular. Violence was supported and encouraged in urban settings because of the easy access to alcohol and the very close quarters of those involved in the disputes doubtless nurtured tension in the streets. In the pardon letter granted to Jehan Fregier, he and Cybeust had been at a tavern, and Cybeust had been cut off due to his overindulgence in alcohol. This consumption would have been a major factor in his violent temperament and eventual death. The alcohol consumed by Jehan and Cybeust was done so on a whim and not through an already agreed upon arrangement. Disputes resulting in beating and then death were often impulsive with no prior planning, resulting in

¹³⁶ Hanawalt argues that juries made up of locals were able to manipulate the courts for verdicts that were favourable to the community, see Hanawalt, *'Of Good and Ill Repute,'* 11, and Smail argues that locals of Marseilles would use the courts to further enmities or to insight violence with their enemies, see Smail, *The Consumption of Justice*, 26-7.

homicide charges to be laid and usually dropped.¹³⁷ Although Jehan should have been charged with homicide immediately, he fled the country “for fear of the rigors of justice” before that was possible.¹³⁸ The fear of the rigors of justice was a commonly used narrative technique employed in the pardon letters. Of the eleven letters studied, six argued that the supplicant had fled the country out of fear.¹³⁹ This tactic could possibly have been used as a means of questioning the fairness and leniency of the crown. The granting of pardon letters implied that any criminal charges against Jehan were dropped and he was permitted full access to his goods and community standing.

Although communities rebelled physically and violently towards the royal government’s attempts to impose justice on them, the populace also resorted to legal means of subverting royal laws towards violence. The punishments surrounding cases of homicides were rarely invoked, alternatively community members were able to justify their actions in a manner that satisfied the court and their peers. That the laws throughout Europe were relatively the same demonstrated that the cultural values towards homicide and murder were commonly held. Men and women also engaged in homicides and violence, although women were more likely the victims than the aggressors.

¹³⁷ Skoda, *Medieval Violence*, 77-8. Skoda uses the term “murder” to describe all acts of killing, but according to de Beaumanoir, many of these acts of murder could, and should, be designated as “homicide.”

¹³⁸ Paris, Archives nationales de France, JJ 165 fol. 96v. – 96r.

¹³⁹ Paris, Archives nationales de France, JJ 165 fol. 96r.-96v, JJ 165 fol. 42r.-43r., JJ 165 52r.-52v., JJ 165 fol. 73v., JJ 165 fol. 58r.-58v., JJ 165 42r.-43r.

CHAPTER 3

GENDERED VIOLENCE

Violence between genders, especially violence against women by men, was an ongoing issue for the people of medieval France. Similar to the ambivalence and minute contrasts between homicide and murder, sexual and domestic violence were ostensibly considered reprehensible by the royal authorities, but acceptable within very ambiguous limits within the community. Men used violence to police the behaviours of women and also their bodies – especially when the established patriarchy was being challenged. Violence against women perpetrated by men was strongly linked to two different factors: to sex and marriage. There were many factors that determined the validity of the use of violence against women; violence was especially prevalent when women challenged masculinity. Medieval people were especially ambivalent towards cases of rape, which were often related to bodies of worth. Indeed a woman's reputation, her age, her sexual activity, and whether she had "provoked" a male by challenging him all influenced how royal authorities and the community understood (and constructed) the legitimacy sexual and domestic violence. Royal and ecclesiastical laws concerning rape, marriage, and domestic violence only complicated medieval perceptions of its legitimate use. In the pardon letters under review here, there were several cases where rape and domestic abuse were at the forefront of the criminal actions, but that the pardon letter exists demonstrated that there were acceptable uses of violence against women to maintain social equilibrium in the form of medieval patriarchy. Customary and regional laws supported the maintenance of patriarchy through the low conviction rates of rapists and the legitimate forms of domestic violence that were permissible to husbands.

One pardon letter detailed the attempted rape of an elderly woman that resulted in her death. In 1411 the friends and family (*des parents et amis charnelz*) of Estienne Blancour successfully petitioned for his pardon from the French Crown for his actions that led to the death a woman named Jehanne.¹⁴⁰ Estienne had gone to a tavern, where he drank a little too much wine. Estienne went to Jehanne's room and attempted to force himself on her, she resisted his advances and as a result damaged his penis. In extreme pain he took Jehanne by the head and slammed her against something. Jehanne died several days later. Estienne was imprisoned, but his friends and family rallied for his release. Estienne's good reputation was restored and his goods returned. Estienne's release was justified by the crown because of his already good reputation (*home de bonne nom renomee*) and because he had not committed any other villainous crimes (*ne [commis] d'autre villain cas*). The homicide was also justifiable because Jehanne was of ill repute within the community, her sexual activity after her husband's death (date unknown) was scrutinized, she was old (70-80 years old), and ill.

This remission letter provided several details about the French legal system as well as community values during the fifteenth century. It also provided insight into the various factors that were taken into account for legitimizing violence: reputation, honour, gender, and policing. There was a delicate balance between the community and royal authority when cases of violence were being contested. Jehanne had literally and figuratively damaged Estienne's manliness, and in so doing she also damaged his honour and reputation. Estienne's violent retaliation against Jehanne was in response to extreme emotions he was feeling at the moment that she damaged his penis. Emotions were an acceptable means of legitimizing violence. Not only were Estienne's actions justifiable to the royal authority, but also to the community; Jehanne had been deemed of ill repute and was therefore a nuisance to the community. Jehanne's age would have played a

¹⁴⁰ Paris, Archives nationales de France, JJ 165 fol. 11v. For this and what follows.

significant roll in the issuing of a pardon for the attempted rape. She was an old widow of ill repute because she had, ostensibly, engaged in sexual activity after her husband had died. For all these reasons therefore, this particular body was deemed of very little value in her society. Jehanne had also been a stranger to Estienne, similar to many of the other cases of rape investigated in this chapter. To legitimately rape a stranger would demonstrate that there were opportunities for men to police and further oppress women who were deemed to be of ill repute, or who held low social standing. Alternatively, rapes in marriages were not a legal category at all; women owed their husbands the marital debt, however, the violence that appears between spouses was just as violent.

The possibilities to legitimize rape were curious given that, although sex in the medieval world was supposed to be limited to marriage (especially for women), in reality both men and women engaged in extramarital affairs. However, women's sexuality was constantly under scrutiny and suspicion, mainly as a result of many centuries of attacks by Church canonists and theologians. These men consistently argued that women, being daughters of Eve, had higher sex drives and enjoyed sexual intercourse more than their male counterparts.¹⁴¹ Women were hypersexualized. This was evinced in the case of Jehanne described above. For a woman in her seventies to be disregarded because of her earlier sexual encounters speaks volumes.

Women were also in danger of being associated with prostitution based on the spaces they occupied. Women who worked in, or frequented taverns were of suspect character and often associated with prostitution.¹⁴² Barbara Hanawalt has argued that taverns were ambiguous spaces, occupied by both men and women, but she argued that women who frequented them

¹⁴¹ James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: The University of Chicago Press, 1990), 492.

¹⁴² Ruth Mazo Karras, "Women's Labours: Reproduction and Sex Work in Medieval Europe," *Indiana University Press* 15, no. 4 (Winter): 153.

nonetheless put themselves at risk, according to medieval patriarchal perceptions.¹⁴³ This might be explained in part because even if women populated these spaces, the tavern was essentially a male space; women who were there were thought to be prostitutes, or at least sexually lascivious women, no matter their actual socioeconomic position within the society.¹⁴⁴ This assumption about women's sexual availability may have been a reason Estienne attempted to rape Jehanne in her hostel room, which was in a tavern.

Women who worked as laundresses were also suspected prostitutes because they had the opportunity to enter male spaces, such as monasteries, and they dealt with intimate garments of their male customers.¹⁴⁵ Female servants in a household with men were expected to be at the disposal of the male inhabitants, and although this behaviour went against social norms, there was ambivalence towards having sex with servant girls. No one really questioned this behaviour.¹⁴⁶ Chambermaids' roles within the home were also questionable. St. Bernardino of Siena wrote that men could have mistresses who looked after the home, and that the man could "profit [from] the pleasure of the flesh" of his mistress.¹⁴⁷ In the example by St. Bernardino, mistresses served the same function as chambermaids or domestic servants. Due to this expectation of "pleasure of the flesh" chambermaids were often equated with prostitutes, which was not necessarily untrue; many chambermaids would earn extra income through selling sex.¹⁴⁸ Women's social status also factored into their ability to bring cases of rape forward, this would prove to be problematic for lower class women who may have attempted to bring cases forward

¹⁴³ Hanawalt, *'Of Good and Ill Repute,'* 105.

¹⁴⁴ *Ibid.*

¹⁴⁵ Karras, "Women's Labours," 153.

¹⁴⁶ *Ibid.*, 153-4.

¹⁴⁷ St. Bernardino of Siena, "Two Sermons on Wives and Widows," para. 9, last modified 1999, <https://legacy.fordham.edu/halsall/source/bernardino-2sermons.asp>

¹⁴⁸ Yahil, "A Rape Trial in Saint Eloi," 259.

against their higher class male attackers.¹⁴⁹ Women being available to men served as one example of how men used sex to control women's bodies, policing their behaviour through a patriarchal society,

Due to women's perceived sexual deviancy, they were not considered as equals to their male counterparts, but they were also seen as objects making sexual attacks more frequent and excessively brutal.¹⁵⁰ A woman who was raped might have little choice but to chose to fall into prostitution, considering her reputation was already compromised. A young girl in Dijon would turn to prostitution after her rape in 1492.¹⁵¹ Jehanne was a young girl who was sent from her rural home to work in a Dijon *rôtisserie*. One evening, when she had stepped out to run an errand for her mistress, Jehanne was dragged against her will to a shop front and her assailant "knew her carnally". Jehanne had attempted to scream but the assailant covered her mouth with some fabric from his apron. After this event, Jehanne fell into prostitution and moved into a house that was probably a brothel.¹⁵² Jehanne had resorted to prostitution because she had garnered a bad reputation in Dijon through no actual fault of her own, but simply because her value as a virgin was gone. Apparently "she was immediately hunted by the young men of the city, who pursued her so that she began to give them pleasure of her body."¹⁵³ Rapes were frequent and usually went unpunished, even though the penalty for rape was death. Rape convictions were rare because there were almost never any witnesses, therefore it was the female victim's testimony against the male attacker – the woman's testimony was often called into question and was believed to be of lesser value.¹⁵⁴ Medical understandings of the human body also factored into

¹⁴⁹ Caroline Dunn, *Stolen Women in Medieval England: Rape, Abduction, and Adultery, 1100-1500* (Cambridge: Cambridge University Press, 2012), 53.

¹⁵⁰ Gauvard, *De grace especial*, 331.

¹⁵¹ Maryanne Kowaleski, ed., *Medieval Towns: A Reader* (Toronto: University of Toronto Press, 2008), 346-7.

¹⁵² *Ibid.*

¹⁵³ *Ibid.*, 347.

¹⁵⁴ Dean, *Crime in Medieval Europe*, 85.

the prosecution of rapists. It was believed by medieval doctors that women could not conceive if they did not consent to sexual intercourse, if a woman who was the victim of rape was impregnated then her rapist would not be guilty of any wrongdoing because the woman would have had to sanction the intercourse.¹⁵⁵

According to Beaumanoir, rape occurred when someone had “carnal intercourse by force with a woman against her will, and when she does what she can to defend herself.”¹⁵⁶ This last provision was crucial; the woman had to have made an attempt to defend herself against the attacker. If a woman made a claim of rape against a man that was decided by the court as being unfounded, the woman ran the risk of judicial punishment or imprisonment.¹⁵⁷ The courts worked in the favour of the male assailants, and therefore against the female victim.

In English law, there were degrees in the severity of rape depending on the sexual activity of the woman. The rape of a virgin was the most egregious form of rape and was the only instance a man would be charged to the fullest extent of the law. Rapes of married women or widows would be punished with a monetary fine.¹⁵⁸ It certainly did not help matters that men were responsible for writing and implementing laws at this time.¹⁵⁹ In the case of Estienne and Jehanne, his pardon was only strengthened and legitimized because his victim was an elderly widow who held little value within the community. The hierarchy of female bodies based on their sexual activity signified that there was a higher value placed on chastity. Women who were considered to be loose or had lost their reproductive abilities due to menopause were of little value to the community.

¹⁵⁵ Hanawalt, *'Of Good and Ill Repute,'* 127.

¹⁵⁶ Philippe de Beaumanoir, *The Coutumes de Beauvaisis*, 303.

¹⁵⁷ Hanawalt, *'Of Good and Ill Repute,'* 127.

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*

Rapes, like murders, theoretically carried severe punishments in the region of Beauvaisis. Beaumanoir wrote that in the French region of Beauvaisis that all those who were convicted of rape were to be “drawn and hanged” and that all the perpetrators possessions were forfeited to the feudal lord on whose land the perpetrator lived on.¹⁶⁰ However, as Hanawalt showed for English society, convictions were rare.¹⁶¹ We do not have similar statistics for Beauvaisis, but given the laws described above and the burden victims faced, it was likely a similar situation.

Abductions could have also resulted in rape, but in these cases, Beaumanoir explicitly argued that the reputation of the woman was in question when charges of abduction were brought forward. Beaumanoir wrote that a valid charge of abduction was contingent on “the admission of the woman and her reputation, for if she admits she went off with him at her own free will and without force,” the charges could not be laid against the perpetrator.¹⁶² Conversely, “if she said she was forced, and she told what force, and how it was used, and that for fear of death she did what he wanted, but as soon as she could she escaped from him to be in safety, then there would be a wager because of the rape.”¹⁶³ Whereas rapes were not often persecuted through the courts, families sought abduction charges when a rape had occurred seeking retribution for the loss of a maiden’s marriage value. Abductions were classified as being damage to the property of a family, as such women’s virginities were considered the property of a family to be sold at marriage through a dowry.¹⁶⁴ In canon law, marriages that were forced through abduction were unfounded and could be nullified. One marriage from 1478 was nullified by the Church because the woman had been abducted against her will, raped, forced into

¹⁶⁰ Philippe de Beaumanoir, *The Coutumes de Beauvaisis*, 302-3.

¹⁶¹ Hanawalt, *‘Of Good and Ill Repute,’* 127.

¹⁶² Philippe de Beaumanoir, *The Coutumes de Beauvaisis*, , 327.

¹⁶³ *Ibid.*

¹⁶⁴ Dean, *Crime in Medieval Europe*, 85.

marriage, and only after several days was she able to escape.¹⁶⁵ The Church in this case was able to negate the marriage because the woman had not consented to the marriage vows or the consummation. She had, moreover, tried to raise the hue and cry, and she fled as soon as she was able.

Not only was the reputation of the victim always questioned, but she was also made to re-live and rehearse the events exactly as they occurred in order to be believed. The onus of the abduction was on the woman; it was her responsibility to escape her assailant. As a general rule, women who brought complaints against an abductor were “not [to] be believed.”¹⁶⁶ Men were able to justify their violent actions towards each other by blaming their emotions or having been insulted. However, women were not to be believed unless they could prove that they had been the victims of an assault. A woman’s reputation was also questioned and the results of her accusations were dependent on her repute. Reputation and accusations against rapists were inextricably linked; women had great difficulty proving their cases in the courts. The laws were designed by men to favour men.

In other areas of France, the laws surrounding violence towards women were similar to those of Beauvaisis. In Normandy, a French Duchy, over the course of the thirteenth century the laws concerning rape were conditional on the age and sexual maturity of the female victims. For example, if an assailant raped a maiden (a virgin), she had to raise the hue and cry during the attack, and then after she had to go directly to the chief justice who would order the girl to be examined by matrons, experts in determining the “signs” of rape.¹⁶⁷ The “signs” of rape that were required for a conviction depended on the sexual maturity of the victim; for virgins, there

¹⁶⁵ Oldradus de Ponte, “Oldradus’s No. 35 (*Consilium*),” Internet Medieval Source Book, last modified 1998, <https://legacy.fordham.edu/halsall/source/oldradus35.asp>.

¹⁶⁶ Philippe de Beaumanoir, *The Coutumes de Beauvaisis*, 328.

¹⁶⁷ Emilie Amt, ed., *Women’s Lives in Medieval Europe: A Sourcebook* (New York: Routledge, 1993), 56.

had to be blood to indicate the tearing of the hymen, as well as other physical wounds or torn clothes.¹⁶⁸ Other women were also expected to raise the hue and cry, and immediately after the event had to proceed to an authority and show any wounds or torn clothing.¹⁶⁹ In this case where the girl raised the hue and cry, and her injuries were consistent with a rape, then the rapist has several options to refute the claims. The rapist could have gone to a trial by water, where if he were to fail the trial he was to be mutilated. Or he could offer to marry the victim on the condition that the girl's parents and the girl were in agreement.¹⁷⁰

Women who were accused of faking rape a accusation in the hopes of securing a marriage proposal were to be whipped as a punishment. Married women were also to be whipped if there had been an accusation of abduction, which was to be decided through a duel between the husband and the abductor. If the husband lost the duel he had to pay a fine to the accused and the wife was to be punished.¹⁷¹ The same procedural formula was followed for widows. Unless they had no men to represent them in a dual, the assailant was to be held in prison until a pardon was secured or until a trial was conducted.¹⁷²

Prostitutes, women considered to be of ill repute, who were taken by force and were not paid for their services could take their case to the Duke. The assailant and his chattels would be seized by the Duke until the prostitute's price was paid, as well as any damages that were done to her clothes.¹⁷³ Damage to the clothes of a prostitute would indicate that there had been a struggle, and the assault could therefore be considered a rape. But the only restitution that the prostitute was owed was her fee and some money to repair or replace her clothing. The

¹⁶⁸ Dunn, *Stolen Women in Medieval England*, 56.

¹⁶⁹ *Ibid.*, 68.

¹⁷⁰ Amt, *Women's Lives in Medieval Europe*, 56-7.

¹⁷¹ *Ibid.*, 57.

¹⁷² *Ibid.*

¹⁷³ *Ibid.*

distinction between maidens, matrons, widows, and prostitutes demonstrated that the reputation was highly significant for determining the severity of the punishment towards the attacker. Similarly to cases of homicide, the victim who had been responsible for provoking the supplicant had a bad reputation and that was justification for their death, in the case of rapes against women, where they were the victim, it was their reputation being questioned, not that of the attacker. Women's reputations being questionable ensured men could police their behaviour with more ease than that of other men. The gang rape of a prostitute served to illustrate this point: Jehanne Boissonne was known as a "public whore" who was sought out by a group of youths who ascribed themselves "to police the morals" of their town.¹⁷⁴ The young men took this woman to a home and "enjoyed her."¹⁷⁵ The actions of these youths were meant to police the body of the prostitute to assert their dominance over her, as she was known to be of ill repute.

Beyond Beauvaisis and the Duchy of Normandy, into the Kingdom of Sicily royal laws against rape were quite similar to those in France. The laws in Sicily were more explicit in sexual attacks. For example, the punishment for raping nuns or novices was death.¹⁷⁶ In the laws of Beauvaisis and Normandy there were no mentions of the rape of nuns or novices. Prostitutes were deemed safe under the rule of the King of Sicily, and those perpetrators who made prostitutes perform against their will were to be punished by death.¹⁷⁷ As in France, the rape of widows, maidens, matrons, or even girls engaged with the intention of marrying were to be punished by death. However, Jehanne who had been attacked by Estienne was a widow, and although Estienne attempted to rape her and subsequently attacked her, he was pardoned for her

¹⁷⁴ Robert Muchembled, *A History Of Violence: From the End of the Middle Ages to the Present*, trans. Jean Birrell (Cambridge: Polity Press, 2012), 65. This example comes from the sixteenth century, however it is still relevant to the discussion of gang rapes that were occurring in the fifteenth century.

¹⁷⁵ *Ibid.*

¹⁷⁶ Amt, *Women's Live in Medieval Europe*, 60.

¹⁷⁷ *Ibid.*

death. This pardon shows the distinct differences between the proscription and practice of the laws. A distinct difference between Sicily and France was that those who were guilty of rape were not given the option of marrying their victims.¹⁷⁸ A law that was unique to Sicily, not mentioned in the French codices, described that those who heard a woman raising the hue and cry but ignored it were to be punished with a monetary fine.¹⁷⁹

Women in Sicily who made false accusations were to be killed. If she was with child, then the child would be born, reared and weaned after forty days of the birth and then the woman would be put to death.¹⁸⁰ The laws in Sicily, as compared to France, were that punishments were more severe for rapists and women who made false accusations – both being put to death. There were also fewer options for an accused rapist to defend himself in the courts or through battles.

Sexual violence was not only regulated through royal and customary laws but there were other more overt and public attempts to control violence towards women throughout the realm. Gauvard argues that violence was a masculine act, that when a woman's reputation was damaged, it was the expectation that a man defend her rather than her defending herself.¹⁸¹ But the ambivalence towards sexual violence was only complicated further with the use of royally issued propaganda feeding the hype towards violent crimes to the populace.¹⁸² The royal authority attempted to strengthen their jurisdiction and their power by equating sexual offenses to political crimes.¹⁸³ Political crimes included "broken safeguard, illegal transporting of arms, and assault on a public road."¹⁸⁴ By putting the two categories of crimes together, not only was

¹⁷⁸ *Ibid.*, 61.

¹⁷⁹ *Ibid.*, 62.

¹⁸⁰ *Ibid.*

¹⁸¹ Gauvard, *Violence et Ordre publique*, 15.

¹⁸² Gauvard, "Fear of Crime," 2-4.

¹⁸³ *Ibid.*, 11.

¹⁸⁴ *Ibid.*

the Crown attempting to demonstrate that sexual assaults were egregious, but also that they were an act against the King's Peace by being of the same magnitude of politically charged crimes.

Sexual violence, while severely punished and with the royal authority attempting to stop all attempts at rape through propaganda, was still rampant throughout the medieval world. One case from the French pardon letters in the fifteenth century described a group of young men who raped an alleged prostitute. The remission letter detailed the events of the night of 26 January 1410 when a young, "ignorant and simple" man named Colin Ymbaut was taken with a few of his friends to a woman's house who was known in the community as being an prostitute.¹⁸⁵ Upon arriving at the house of the woman, one of the friends said that he had permission to enter the abode and that he knew the woman's husband had been out of the country for over eight years. As all the youths entered the bedroom, the woman was found with another man with whom, the document claimed, she said had known her carnally "against her will". The youths chased the man away, but several of them went back to the bedroom after. The youths felt that they had done the woman a service and were pleased that they had chased away this alleged rapist. By chasing the man away with the threat of violence, they had protected, and defended the woman while policing the behaviour of the rapist. Colin stayed behind and knew the woman carnally against her will, but only one time. The supplicant went to his companions the next day to boast about what he had done, and his friend beat him. Colin had promised the woman that he would return to her and when he did, he was arrested and imprisoned in the Châtelet. Colin's actions were not only policing the alleged rapist who he had chased away, but was also policed by his companions for his actions with the prostitute. The companions beat him as a means of communicating that his rape of the prostitute was not justifiable among his peers. However,

¹⁸⁵ Paris, Archives nationales de France, JJ 165 57r – 57v. For this and what follows. "Colin Ymbaut pauvre jeune homme simple et ignorant... 26ieme jour de janvier passé à l'instigation et... de deux autre companions jeunes... supplicant sesoit transpoté avec eux en certain hostel ou porche ou il [a plusieurs] [rentable] en Paris."

Colin was issued a pardon, suggesting that his actions, although worthy of a beating, were not worthy of a capital punishment. This pardon, as well as the gang rape of the prostitute mentioned above, and the rape of the young girl in Dijon, served to illuminate that prostitutes in medieval French society were of little worth. Prostitutes could be policed through forced sex in order to maintain their marginalized position in society.

Sex for medieval people was only legally and ecclesiastically sanctioned through marriage. Copulation was for reproduction, and the Church prohibited other sexual intercourse for any reason other than producing progeny. However, women were expected to be available for their husbands. There were no laws protecting women from forced sex with their husbands; sex was deemed to be a marital debt that the woman owed the husband.¹⁸⁶ Early Roman legal experts, most importantly Gratian who wrote in the 12th century, weighed in to support the notion of marital debt as being acceptable grounds for coition. Gratian's writings on marriage pronounce "if for offspring, then coition is not sin... the same is true when copulation is to pay the debt".¹⁸⁷ Marital debt was not a sin, as long as it was not for pleasure. But the question arises, pleasure for whom? The wife owed the husband a debt in the marriage to be paid when asked, however women could not in return ask for the same from their husbands. The marital debt was also a means of maintaining patriarchy within the private sphere, while also policing the bodies of their wives. To pay the debt, wives were at the disposal of their husbands, leaving little autonomy to women in the marriage.

Women, who were not able to seek sex within the marriage, would step outside the marital vows to have affairs. In one pardon from around 1411, marriage, sex, infidelity, domestic

¹⁸⁶ Steven Bednsarki, *A Poisoned Past: The Life and Times of Margarida de Portu, a Fourteenth-Century Accused Poisoner* (North York: University of Toronto Press, 2014), 38.

¹⁸⁷ Gratian, "On Marriage," para. 6, Internet Medieval Source Book, last modified 1999, <https://legacy.fordham.edu/halsall/source/gratian1.asp>.

violence, and patriarchy all appeared within the letter and the narrative culminates in the death of a wife at the hands of her husband. Jehanne had been having an affair with Vian, and allegedly confessed to her husband about her illicit extramarital behaviour.¹⁸⁸ She told her husband that she had gone to see her lover who had persuaded and seduced her to become his physical companion. Vian, the lover, had a reputation in the community for being a seducer. According to the document the husband took back his wife and told her to stop the affair and pardoned her, thinking she would abstain from such activities, and insisted that she stop living a dissolute (*dissolu*) life.¹⁸⁹ Nevertheless, she continued to meet Vian, a fact that was apparently well known to the community. The document claimed it was of “commune renommée” in their town of Champaigny. On the 18th of November, Jehanne left her hostel and was gone for a long time. The husband saw that she and Vian were going somewhere and became upset. The husband made a move against Jehanne because he was mad that she had not abstained from her dissolute life, and stabbed her multiple times with a small knife. After this attack, the husband fled the area. Eventually he was pardoned for the crime, but details about his possible arrest were not recorded. His pardon described that he was a calm and peaceful man, of good repute, honest, and had never committed any other crimes.¹⁹⁰ The husband was pardoned, and returned to good reputation and had all his good restored.

In this remission letter, the husband was pardoned for the killing of his wife who had dishonoured him; he had to police her behaviour to regain his masculinity and his repute among the community. However, in the remission letter that detailed the slaying of a husband by an angry lover mentioned in Chapter 2, the wife who had been disloyal through an affair, abused by her husband, and subsequently implicated in the murder of her husband was pardoned for her

¹⁸⁸ Paris, Archives nationales de France, JJ 165 fol. 44. For this and what follows.

¹⁸⁹ *Ibid.*, “absterner de mener telle ... vie.”

¹⁹⁰ *Ibid.*, “homme paisible... de bon vie renommé et... honneste... reprins d’autres villain cas.”

actions.¹⁹¹ In this remission, the wife had been beaten by her husband, his attempt of policing her illicit affair, however, the lover in return had to police the excessive beating of the husband by killing him.

It was curious that a husband was legally permitted to beat his wife to maintain the established patriarchy, but bar brawls were seen as disruptive and damaging to society.¹⁹² The example Skoda offered of a “justifiable homicide” (in the medieval context) was when a husband beat his wife to death with a pool cue; they had gotten into a fight at their home, he left to go to the pub to play pool, but his wife followed him and continued the fight in a public space. As Skoda pointed out, the husband was being emasculated and his reputation was publicly compromised, so he beat her to death with his pool cue to restore his honour and to teach his wife a lesson.¹⁹³ The husband killed his wife to communicate a message to several parties. First, he was communicating to his wife that her actions were unacceptable. Second, he was performing an act that reasserted his masculinity and reputation towards his peers. The wife brought a private affair and made it a public spectacle, and she paid for that action with her life.

This pardon of the husband who killed his wife Jehanne, and the husband who killed his wife in the tavern served to exemplify some of the many cases where domestic violence was deemed an acceptable act between a man and his wife. Marriage not only bound a man and woman legally, but also in the eyes of the Church. There were specific roles that the ideal woman was supposed to portray and these ideals were supported through Church writing. Going back to the twelfth century, Jacques de Vitry, a preacher, gathered *exempla* for his congregations.

¹⁹¹ Paris, Archives nationales de France, JJ 165 fol. 63 r.

¹⁹² Skoda, *Medieval Violence*, 219-220; 55.

¹⁹³ Hannah Skoda, “Violent Discipline or Disciplining Violence? Experience and Reception of Domestic Violence in Late Thirteenth- and Early Fourteenth-Century Paris and Picardy,” *Cultural and Social History* 6, no. 1 (2009): 15.

Exempla were cautionary tales given during sermons.¹⁹⁴ Vitry directly addressed women who were adulterers claiming, “it is not easy believing a wife nor accepting the advice of an adulterer.”¹⁹⁵ One *exempla* described a husband who beat his wife severely with a sack (it is unknown if there were any contents in the sack), breaking her bones, her screams so loud that the neighbours came to her aid. The wife took the husband to court but the suit was dismissed.¹⁹⁶ This *exempla* demonstrated that there were few recourses available to the wives of abusive husbands, in the eyes of the law and the church. These *exempla* also demonstrated that the Church, even as early as the twelfth century was condoning domestic violence towards wives, as well as inherent distrust in wives that men were supposed to hold. These cautionary tales also illuminated the justifiability of violence towards Jehanne due to her deceitful and illicit behaviour with Vian. The husband’s killing of his wife was not only legitimated through the courts but also through sermons that were being promulgated from very early in the medieval period.

The *exempla* were canonical rules established by the Church to police and regulate marital and sexual behaviours of Catholics. Beaumanoir’s customary laws provided details about legal recourse that was available to husbands if their wives were having illicit affairs. According to the laws, husbands who caught their wives having affairs had to publicly denounce the lover, and if the wife and lover continued their forbidden liaison, the husband had the right to kill the wife and lover without legal recourse.¹⁹⁷ This customary law explained why Jehanne’s husband was ultimately pardoned for killing her when she continued her affair. It was a *custom* to accept such an act of violence if he had been so disgraced.

¹⁹⁴ Jacqueline Murray, ed., *Love, Marriage, & Family in the Middle Ages: A Reader* (Toronto: University of Toronto Press, 2010), 304.

¹⁹⁵ *Ibid.*, 305.

¹⁹⁶ *Ibid.*, 304.

¹⁹⁷ Beaumanoir, 330-1.

Whether a woman was married, a widow, or a maiden, she was at risk of being sexually and physically assaulted. Women were often the victims of violent crimes, and the laws were rarely appealed to when these acts occurred. Royal authorities shared the ambivalence towards gendered violence that the community held. Both these groups would either turn a blind eye to domestic violence, or would petition for the release of their peers who perpetrated violent crimes.

CONCLUSION

The medieval period was violent, and this violence was not confined to geo-political borders or regional territories; all medieval people experienced or witnessed violence daily in some form. There was an obvious need to police it, and this was demonstrated in the large number of remission letters that were granted to those who had committed violent actions. Guillome who killed the father in order to stop a bar brawl was policing the disturbance that was occurring; Estienne who killed the old, widowed Jehanne was policing her violent act of damaging his penis; and Huguet Brachet who was attempting to calm down an aggressor in the streets had to resort to violence to stop the attack.¹⁹⁸ All these supplicants had used violence to police and control the actions of their aggressor; they were policing violence with violence. The royal authority, for their part, had to police *these* acts. However, when pressured, the pardons ultimately legitimized and validated these forms of violence. In effect, the king was perpetuating the use of violence among the community members to police each other.

Although violence was destructive, it was also used to create and structure society. As has been demonstrated in this thesis, pardon letters were the apparatus through which the community could subvert the royal laws that were in place. Pardons introduced here included homicides and rapes, two acts that are extremely damaging, both to the victim and society. And although these acts were illegal under the royal laws, those who engaged in these forms of violence and pardoned were able to demonstrate the fluidity of the law, and the ambivalence of the people.

¹⁹⁸ Archives nationales de Paris, JJ 165 fol.

Early studies of medieval violence focused primarily on personal wars and feuds among the society's elite, however, violence was also pervasive at the community level.¹⁹⁹ In communities where everyone was under constant surveillance from their neighbours and peers, *as well as* by the king and his representatives (to at least some extent), there was an inherent need to ensure that all were acting according to societal norms. The constant surveillance would also necessitate the perceived need to control and rectify the culturally inappropriate actions with a socially accepted form of arbitration. Violence could include both the culturally inappropriate action and the socially acceptable action, depending on the circumstances. However, more recent analyses of interpersonal violence among communities have shown that violence was communicative and somewhat rigidly structured through the reinforcement of cultural and social norms.²⁰⁰

There were legal and customary laws in place as an attempt to control and regulate the violence that was permeating throughout the French realm. However, in order for laws to be adhered to, there had to have been a communal uptake from the French subjects. The kings were meant to embody and maintain peace throughout the realm; however, the king's version of peace was not necessarily aligned with what was required at the community level. The communities did not necessarily follow the laws or the royal authority unless it suited their needs. Rather, they appealed to their cultural norms to regulate each others' behaviour.

While there was ambivalence towards murder and homicide, taking the life of someone could be acceptable. Reputation was key to the justifiability of a homicide. The supplicant had to ensure that they belayed the fact that their reputation had been tarnished, and that the repute of the one they killed was of lesser societal value. This was especially apparent in the attempted

¹⁹⁹ Bartlett, "Mortal Enmities," 198.

²⁰⁰ Skoda, *Medieval Violencem* 8; Brown, *Violence in Medieval Europe*, 12.

rape of Jehanne the widow, who was of ill repute among the community, and therefore Estienne was justified in her killing.

Gendered violence was structured around similar norms, for women's value depended not only on their reputation but also on their age and marriageability. The Church, customary laws, and royal laws sanctioned domestic abuse to some extent, however, there was a grey area between abuse as discipline, and excess. Rapes were, in theory, capital crimes that carried the death sentence, but as we have seen juries, made up of men, and laws written by men, were designed to protect the assailants. Rape was also used as a means of policing women's behaviour, especially if they were deemed of ill repute.

To the modern Western audience, the pervasive use of violence in the medieval world to control and police the behaviours of their peers may seem foreign, or "uncivilized". However, as has been demonstrated in this thesis, violence served an ordering function, legitimate forms of violence were permissible to regain peace at an interpersonal level. There were strict norms regulating how violence was used, and as such there were complex social rules surrounding it. Medieval France was not an immoral, "barbaric", or "uncivilized" society; rather it was a complex, dynamic, and complicated society with written and unwritten laws to which the entire community was expected to adhere.

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