



Claude Gauvard, *Condamner à mort au Moyen Âge : Pratiques de la peine capitale en France XIII^e-XV^e siècle*

Paris, Presses universitaires de France, 2018, 316 p., ISBN :
978-21-3054038-0

Luke Giraudet



Electronic version

URL: <https://journals.openedition.org/chs/3089>
DOI: 10.4000/chs.3089
ISSN: 1663-4837

Publisher

Librairie Droz

Printed version

Date of publication: 1 December 2021
Number of pages: 133-135
ISSN: 1422-0857

Electronic reference

Luke Giraudet, "Claude Gauvard, *Condamner à mort au Moyen Âge : Pratiques de la peine capitale en France XIII^e-XV^e siècle*", *Crime, Histoire & Sociétés / Crime, History & Societies* [Online], vol. 25, n°2 | 2021, Online since 21 March 2022, connection on 08 November 2022. URL: <http://journals.openedition.org/chs/3089> ; DOI: <https://doi.org/10.4000/chs.3089>

This text was automatically generated on 8 November 2022.

All rights reserved

Claude Gauvard, *Condamner à mort au Moyen Âge : Pratiques de la peine capitale en France XIII^e-XV^e siècle*

Paris, Presses universitaires de France, 2018, 316 p., ISBN : 978-21-3054038-0

Luke Giraudet

REFERENCES

Claude Gauvard, *Condamner à mort au Moyen Âge : Pratiques de la peine capitale en France XIII^e-XV^e siècle*, Paris, Presses universitaires de France, 2018, 316 p., ISBN : 978-21-3054038-0

- 1 In the kingdom of France, the later Middle Ages witnessed a dramatic shift in the application and justification of the death penalty, a shift that represented an integral part of the broader history of the evolution of the French state and affirmation of royal authority. The power to administer this penalty emerged in this period as a key site of struggle between the French monarch and those entities that bracketed his authority, most notably the church, nobility and urban elite. As the royal centre gradually secured its supremacy in this arena and the penalty became legalised (albeit never entirely monopolised), this evolution engendered a series of important changes in the performance of the sentence, its rationalisation, its public perception and its cultural presence.
- 2 Such is the foundational argument advanced by Claude Gauvard, whose book brings together vital strands from her lengthy and ground-breaking career studying crime in medieval France. Presenting a thorough analysis of capital punishment through nine detailed chapters, Gauvard insightfully sidesteps the question of the penalty's theory to assess its experience in premodern society, and the implications of this experience for

the ways in which France's inhabitants perceived — but also actively shaped — this quintessentially public aspect of power.

- 3 In choosing to focus upon practice, Gauvard addresses two questions directly. First, how did the death penalty become a readily recognised and employed aspect of late medieval justice? Second, how was this penalty enacted, and how frequent was it? The latter is the most straightforward, and is tackled in Gauvard's first and final chapters. Contrary to the widespread impression of a bloodthirsty Middle Ages, a survey of ecclesiastical and urban sources alongside those for the Paris Parlement reveals that the death penalty was employed far more rarely than we might assume. While the available sources are far from comprehensive, they reveal institutions such as Paris' abbey of Sainte-Genevieve executing only a single individual a year (p. 26). Moreover, and as Gauvard demonstrates in Chapter 9, those subjected to the pain of death were invariably community outsiders, lacking the social and economic capital required to secure a royal pardon or sway judges, and around whom an increasing perception of innate criminal characteristics was beginning to emerge.
- 4 This appreciation of the death penalty's relative rarity frames Gauvard's response to the first question. If executions were more sporadic than earlier historiographical assumptions have led us to believe, what did their performance mean for those who witnessed or wrote about them? Ostensibly, the paucity of executions underlines their exemplarity, a theme that Gauvard grapples with throughout her book. On the one hand, Parisian chroniclers, jurists and literary writers were keen to draw moral meaning from these rituals when they described them for their audiences, situating these against the backdrop of ancient and religious *exempla* (p. 71-72). On the other, Gauvard is quick to stress that this exemplarity is only one part of the picture. Rather than representing a medium for the unidirectional communication of moral or political messages, executions — as public events — accorded to their audiences agency in the sanctioning of the penalty and the process of excluding criminals from the community. As Gauvard emphasises in Chapter 8, successful executions depended upon a public acceptance of the sentence's ritual validity, being performed in accustomed places and according to customary practices (p. 216-218). Through this very publicity, Gauvard poignantly signals how the commons became custodians of the memory of capital punishment's performance and, in the process, enshrined a common understanding of seigneurial and royal legal pre-eminence (p. 220). The assessment of the intersection between ritual and publicity enables Gauvard to effectively demonstrate the dual ways in which the public represented a check upon the performance of executions while being co-opted into the codification of this power.
- 5 In Chapters 6, 7 and 8, Gauvard draws this examination of publicity back to the question of royal power's evolution and the manifold ways in which the monarchy responded to public attitudes towards capital punishment. Having demonstrated that the French king's ability to exact this penalty evolved pragmatically and gradually, Gauvard persuasively highlights a vital conceptual leap occurring in the fourteenth century through the emerging notion of "*crimes énormes*", whereby a rhetorical emphasis upon the dangers posed by crime to the common good of the French kingdom enabled the monarchy to draw wider-ranging spheres of criminal behaviour under its purview, including "ecclesiastical" crimes such as sorcery and heresy (p. 163). By revealing the relationship between capital punishment and royal claims to defend the common good, Gauvard proceeds to build upon her extensive research on the royal

pardon to underscore how the French king positioned himself as the ultimate arbiter of his subjects' fate. Chapter 7 demonstrates how the progression of royal grace is central to understanding the death penalty, with the monarch's increasing readiness to pardon criminals during the fourteenth century cementing his role in the enforcement of societal peace and the criminalization of certain acts (especially homicide) (p. 210-211). Public debates were also influential here. As the number of pardons exploded from the mid-fourteenth century, France witnessed a parallel growth in judicial and public concerns for clemency's overuse and the fallibility of royal justice. Brief periods of intense but ultimately unsuccessful reform to restore justice's rigour, promoted by Charles VI's Marmouset councillors (1388-1392) or the leaders of the Cabochien Revolt (1413), are highlighted to reveal how opinion continued to shape the contours of the death penalty (p. 206-207). As Gauvard notes, these early debates surrounding grace subsequently became fundamental to the penalty's later development, particularly regarding the establishment of irremissible crimes.

- 6 While this study is comprehensive in its thematic breadth and depth, Gauvard acknowledges the need for nuance in the treatment of her source material. Due to both medieval practices of record keeping and the ravages of time, complete archival series do not survive for Paris' Châtelet or its abbeys; those registers that we do have offer limited snapshots of justice at work or need to be treated with due circumspection (p. 39). Gauvard emphasises this last point for one of her major sources, the Châtelet's Register of crimes for 1389-1392, where the disproportionately high number of executions in this exemplary "hapax" reflects the demand for judicial rigour expressed by the reformist Marmousets, among whom the Châtelet's *prévôt* Jean de Folleville could be counted (p. 43). Likewise, Gauvard tacitly concedes that her research has led her to privilege Parisian sentences, with other contexts such the Nord towns (Douai, Amiens) treated more briefly. This decision is nevertheless well justified. Monarchical justice was concentrated within Paris. As the cultural, political and juridical centre of the French kingdom, it was within the confines of Paris' royal institutions — the Parlement and the Châtelet — that the nature of capital punishment was elaborated, representing models for the wider kingdom. Lastly, it was invariably in Paris that those "*crime énormes*" perceived to endanger the common good — especially *lèse-majesté* — were punished, with the result that Parisian ritual repertoires and executionary sites assumed precedence for the wider kingdom.
- 7 A comprehensive synthesis of the ideas championed and sources unearthed by Claude Gauvard throughout her career, *Condamner à mort* presents an essential overview of the death penalty's execution in later medieval France, usefully integrating this history into the overarching narrative the evolution of the French state.

AUTHORS

LUKE GIRAUDET

Centre d'histoire du droit et de la justice – UCLouvain

luke.giraudet[at]uclouvain.be