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Archaeology of rights: petitions and mercy in early modern societies

The Problem

In this paper, I would like to present to you some crucial problems that are at the heart of my research which deals with the communication between the rulers and the governed in early modern societies, more precisely with the constraints, obligations, as well as duties attached to this relationship.

The communication between the rulers and the ruled is a classic topic, which, after having been developed by constitutional historiography particularly in France and England, has nourished and still nourishes today a wide historiographical literature engaged in particular in the reconstruction of a *history from below*. The petitions which, in various countries (not only in the West, as we shall see), were addressed to the rulers throughout the early modern period in massive quantity have provided an essential basis to analyze the rulers/ruled communication. Petitions are valuable in identifying forms of collective mobilization, and in reconstructing lifestyles of individuals and groups whose version of the facts was generally absent from the sources. They have thus become reservoirs of information on the political stances and the social lives of their authors. Yet, in my opinion, this assumption has been made without any sufficient, in-depth reflection on the characteristics and the reason for being of this particular form of address to.

The perspective I will adopt in the following pages is different. My research is based on a corpus of petitions (roughly 2,000), among the tens of thousands that were addressed to the Savoyard State by its subjects throughout the early modern era, in forms that, as we shall see, are far from being only confined to European countries. My questioning concerns the "petitionary form" as such, that is to say, the relationship between the rulers and the ruled that this specific form of communication implies and triggers. Therefore, I investigate the legitimacy which is at the basis of a direct address, grounded in a particular case, to the authority and which arouses the sovereign's "duty of response".

Some questions are at the basis of my research: do the petitioners' deference and, on the other hand, the King's benevolence set a reliable framework for understanding this relationship? Is the relationship between clients and patrons relevant to understand and interpret petitions? Moreover, was this form of communication available and accessible to everyone, as the rulers claimed constantly? Finally, in what relation, with respect to the law, was the system of dispensation and exception to the norm introduced by petitions?

I will begin by giving a brief overview of the way in which the different national historiographies have dealt with the topic of "petitions"; then I will go on by presenting the sources on which my research is based. An initial analysis of the range of the requests submitted allows pondering over the place occupied by petitions in the government of the central states, and over the forms taken by the system of exception at the hearts of the administration of the states. The third part of this paper will explore the social identity of the people who wrote the petitions. The consistent fact that among petitioners were individuals close to the Royal House invites to remove the petition from the anthropological and timeless framework of patron-client relations and dependence, to inscribe it in the political domain of jurisdiction (tackled in part four), that is to say in a relationship of domination which, in the societies in question, is characterized by a reciprocal (though asymmetrical) dependence of the parties. I thus consider that this jurisdiction framework accounts for the remarkable existence of the phenomenon of petitions in different political regimes.

1. Petitions, why and where

Petitions: let us first give a brief definition of this practice by borrowing it from a path breaking and now classic study: ' Petitions are demanded for a favor, or for the redressing of an injustice, directed to some established authority. As the distribution of justice and largesse are important parts of ruling, rulers can hardly deny their subjects the right to approach them to implore them to exercise justice, or to grant a favor. Whatever form or context, petitions were usually written in a deferential style, showing that the petitioner did not intend to question the established power structure "¹ It is important to add to this definition another demand regularly stated in petitions: the dispensation from a norm for the sake of the specificity of a situation or a fact.

The use of this form of addressing the authority is attested in an remarkably wide range of geographical areas, from Europe to the Ottoman territories, but also from Russia to China etc. ;

¹ Heerma Van Voos L. (ed.), 2001.

various studies have thus embraced this topic cross-checking aspects of petitions that meet the expectations of national historiographies. In British historiography, interest in petitions is essentially twofold: on the one hand, it is linked to the capacity attributed to them to develop into a “crystallization point for other popular rights. In England, as in general in Western countries, petitions are supposed to unveil, and concurrently to raise political consciousness and mobilization. From at least the seventeenth century, the right to petition easily brought about the right to assemble in order to draw up, discuss, political choices”. This political interpretation privileged, of course, the collective petitions, which were interpreted as harbingers of later political movements and even of a "democratic culture," because, as it was argued, it was precisely their circulation via prints that contributed to the realization of a communicative revolution in the mid-seventeenth century².

On the other hand, in this same historiographical context, a social history engaged in an approach "from below", put forward the petitions emanating from the poorest groups, rarer, and therefore all the more precious, forms of expression by common or marginal individuals: women, widows in particular - figuring so frequently among the petitions ‘writers- , peasants, workers... This perspective has produced “realistic” readings of the data contained in these writings that are supposed to provide information on family, economic or demographic conditions and crises of ordinary people.³

These same sources concerning individual petitions has raised, in the context of French historiography, a very different approach, attentive less to information delivered by petitioners, than to their narrative capacities and their abilities –and competencies - to get their stories across. This perspective was especially practiced in the case of a specific form of petition, the pardon pleas addressed to the King⁴, unsurprisingly the most cherished sources of French historiography, whose interests are strongly rooted to the relationship of the monarchy to its subjects.⁵ (Nassier, Abad)

Finally, both Italian and German historiographies concurrently interrogated the forms of state construction, from a contractual perspective, which emphasize the cooperation of social as well as institutional subjects. According to this approach, the petitions addressed to the rulers are the loci of encounter and mediation between the territorial lords and their subjects; loci where granting grace and demanding rights are articulated⁶. This contractual communication, according to these authors, would embed in the petitioners’ deferential attitude, evidencing their submission to an established

² Zaret., 1996, 2000.

³ Hitchcock T., King P., Sharpe P., 1997; King S., 1992 and 2008 ; Sokoll T. 2001; Shepard A., 2008.

⁴ Gauvard C, 1991 ; Zemon Davis N. 1987.

⁵ Abad R., 2011; Nassier M. 2010.

⁶ Nubola C., Würigler A., 2002.

order that their requests are not intended to question. On the side of the rulers, it is the magnanimity and benevolence that characterize their attitude toward their subjects. From this perspective, petitions appear as the expressions of the direct, unmediated relationship between governors and rulers which is considered one of the elements of the solidity of the early modern domination framework.

These characteristics have been widely emphasized and are in line with the alleged ecclesiastical origin of petitions to which the vast majority historians in the West have pointed. Throughout the early modern period, a petition addressed to the sovereign or central government is supposed to be modeled on the original prototype of petitions addressed to the pope and the bishops as early as the first centuries of the Christian era; a model, in its turn, apparently inspired by the model of the relationship that the faithful have with God. These features elicit consequences, especially concerning the alleged "open" nature of petitions, namely that it was accessible to anyone. As a traditional German proverb says: "Everybody is free to write petitions and have water to drink". Writing petitions was a common human experience, easily accessible to anyone, just like "drinking a glass of water"⁷.

However, this genealogy does not square with the extraordinary frequency of petitioning in geographical areas which hardly correspond to the areas of influence of the Roman law or to the tradition of the Judeo-Christian political culture. In China and Russia, for example, thousands of petitions were sent to the imperial courts from cities and distant provinces. In both cases, this tradition, dating at least from the 13th century, has persisted: today indeed, there still exist specialized offices in charge of handling the thousands of requests that are daily addressed to the Russian and Chinese authorities.

This extraordinary dissemination of the petition, as well as its outstanding longevity, should stimulate us to reconsider its meaning, and to re-examine the frameworks of "deference" and "paternalism" underpinning its conventional interpretation. A comparative analysis seems necessary. (The research I have conducted over the last few years has grown out of a wider project aimed at comparing the forms by which one addressed the authorities in early modern societies. This wider project has brought together researchers studying geographical areas distant from each other – Western Europe, Imperial Russia, and China).

⁷ Quotation in Nubola C., Würigler A., 2002, p. 41.

For the moment, and in the framework of this paper, I will merely undertake to interrogate the soundness of this genealogy and the consequences that it implies. For, though such a genealogy is questionable, it is nevertheless constantly endorsed, and imprints strong characters on the petitions, which decisively determine their interpretation.

Thus, as a way to summarize: we are confronted with the description of a straightforward relationship which was framed in a shared language acknowledging relations of authority, dominated by deference and benevolence. Anybody could address the sovereign directly, whose ability to listen is akin to divine benevolence.

2. Sources

Each of these points is seriously challenged by the research I am conducting on a corpus of petitions in the archives of the Savoyard monarchy during the eighteenth century. Overall, as I said, my corpus consists of around 2,000 petitions, which were addressed to the Consiglio di Stato of the Savoyard state during the 18th century (the Savoyard state is the last state that was created in Europe in the course of the sixteenth century, which allowed for the production and preservation of a large body of documents, and allows historians to take examine phenomena which elsewhere took far in the past).⁸ At the heart of my research lie "private petitions," namely individualized addresses to the authorities, which have increasingly drawn historians' attention, and whose legitimacy is particularly questioned (as less politicized forms of expression)

Starting from the mid-1720s, the number of petitions that were addressed to the sovereign of the Savoyard State had risen so sharply, according to his officials, that the reorganization of the matter and the strengthening of the Consiglio di Stato (later transformed into Consiglio dei memoriali) were necessary to handle this ever-growing flow. However, a first remark seems necessary: this central institution responsibility for petitions is not self-evident, but is rather the result of enduring battles conducted by a plurality of institutional bodies on what we may define a "petitions' market". A subject of the Savoyard state who would have wished, for example, to request a tax cut, at the end of the 17th century, could address no less than five or six institutions including the Royal House, the different Chambers or Secretariats, etc. The foundation of the Consiglio dei Memoriali, which eventually dealt with the assessment of all incoming petitions, was a sign of victory within a highly competitive market. This is illustrated at best, for example, in a declaration made in 1680 by the

⁸ Archivio di Stato di Torino, Sezioni Riunite, Magistrature, Consiglio di Stato *poi* Consiglio dei Memoriali; 600 r. 192 mazzi.

State Regent, Giovanna Battista de Nemours: "Everyone has been able to observe how diligently, during the minority of His Majesty our Beloved son; we indulged in devoting entire days to listening to everyone, and to putting order in the things that were presented to us. We endured suffering but did not display any sign of exhaustion, and We even privileged tackling the dullest tasks to the expense of our own conveniences"⁹(the vocabulary used here deserve special attention that unfortunately I cannot do so in this paper: "to put order", for example, does not only refer to listening, but rather to "qualifying" operations which ought to be investigated further). The rise of the Consiglio dei Memoriali in 1720 is therefore the result of costly operations, diligence, and patient sacrifice.

What is then the Consiglio di Stato? (later CdM) It is an old institution, dating back to the 14th century, but which was precisely reorganized in 1723, as part of the drawing up of the Royal Constitutions, a "rationalization" of the judiciary of some sort, which served as a model to most eighteenth-century administrative reforms. In fact, its prerogatives were manifold: first, the Grand Chancellor who presided over it (he is defined, in the sources, as "the eye of the Prince") was to be the privileged interlocutor of the legally "weak people" (they are defined "miserable" in the sources) who had to be granted special protection in the justice system. The "oppressed," the minors, the widows, the orphans, all those who "happen to be disputing with more powerful parties, and thus are likely to be denied justice". The reference is explicit to the King's special jurisdiction over the "poor", which is a salient feature in the construction of monarchical power from at least the 13th century. This institution is thus the expression of what is the ultimate royal jurisdiction (to which we will return shortly). Therefore, from this "specialization" in advocating for weak persons, that of petitions followed, since that form of address was deemed to be the 'poor's' prerogative. This identification with the royal jurisdiction endowed the institution with a position of supremacy which is to put in relation with the other major competence in its attributions - that of the supervision over all other magistracies. The Great Chancellor was entitled to ensure that they observed and enforced the laws of the State and, above all, he must ensure the "conservation of the jurisdictions": that is to say the reciprocal respect of each institution's prerogatives; he was therefore competent in settling the conflicts opposing the various magistracies to one to another. The Grand Chancellor was therefore a sort of "supervisor" over the magistracies.

Now, what was the procedure followed by the Grand Chancellor in the matter of petitions? The question is obviously central to understand what sort of objects are in our hands; how was it created

⁹ AST, Magistrature , Consiglio di Stato, r. 28, c. 61, 25 aprile 1682.

and by whom (the petitioners, the chancellors?); in short, to understand the actual conditions of our knowledge.

The Grand Council was entrusted with receiving (in public "hearings" taking place in its house twice a week) petitions concerning all "private" affairs (in other words, not those concerning the King's patrimony, which had to be addressed to the Office of Public Finance, like those concerning the Royal House, the House of Princes etc.). The petitioners were supposed to appear before the Council in person (at the end of the 17th century, references are made to hearings happening in the presence of lawyers who were responsible to listen to the parties; this clause disappeared in the 18th century though). On this same occasion, the petitions (often - but not always - written by professionals) were subjected to a first selection; some were forwarded to senators so that they gave their opinion (which can be read in registries entitled *Pareri*); the rest of the petitions, far more numerous, are to be found in other registries where they had been summarized (very faithfully to the original, as I could notice when a comparison between the two documents was possible). These *relazioni*, as these sets of syntheses were called, form the basis of the work of state officials, and also of my research (together with the *Pareri*). The "relazioni" were to be presented and discussed collectively in meetings that were supposed to take place twice a week ("or more often, if necessary"). Some would eventually be dismissed ("depellite"); others transferred to the magistracy concerned or to delegates ("delegate") in charge of conducting a local investigation, or even to the king in case of "pure grace". But the majorities were assessed during the meetings.

The petition was therefore part of a complex procedure, undergoing several stages, and which, moreover, involved in a large part of the cases the intervention of a plurality of actors (beside the king and the petitioners, the senators, local intendants, witnesses, etc.). It thus rarely translates a direct relationship between the King and his subjects. And, in addition, it was not a single act of writing, but rather the result of an "action", a mobilization of people and things. This already questions one of the most entrenched postulates in the interpretation of petitions, that is to say it easy, unfettered access; apparently, writing a petition was not as simple as drinking a glass of water, as the German proverb claimed.

During the 1720s (1720, 1722, 1724) the Grand Chancery received many hundreds of petitions. Among these, about 500 contain data rich enough to be analyzed in detail: not only the name or

names of postulants, but also their geographical origin and their profession, in addition, of course, the detail of their requests. These constitute the first sample of my research¹⁰.

Between these petitions, around 30% are addressed to the sovereigns by collective subjects, communities, cities, parishes, neighborhoods; the subjects concern essentially requests for tax reductions following the departure of members of the community, or following natural disasters, etc.

The requests sent by individuals (of which 12% women) are more interesting; they fall into some of the categories that Massimo Vallerani and I have recently individualized¹¹: requests for the King's grace and therefore for royal pardon; requests for "being granted to do something", or to obtain something despite the general prohibition established by a norm; requests for favors and gracious concessions.

Graces from judicial sentences: 14%

Special permissions (doing something despite contrary laws: land use, inheritance, work, dowries etc.): 16%

Procedures (interventions on the time of the procedure, requests for referrals, requests for summary procedure): 15%

Tax exemptions: 3%

Request to obtain charges: 22%

Request to get wages: 17%

Aids: 13%

For the purposes of this essay I will not dwell on the analysis of the advanced requests, but I will limit myself to considering the social identity of the applicants.

Petitions, case and law

Let us start with a first observation:

The analysis of this massive corpus testifies to how complex the handling of these documents was: about 35% of the petitions I examined triggered local investigations, which evidences the extent to which these requests were completely integrated into the system of state government;

¹⁰ The comparison between this sample and around 600 petitions presented in 1732, 1734 and 1735, makes it possible to measure the extraordinary permeability of these scriptures to political or economic contingencies. In the 1730s a very serious economic crisis produced an authentic avalanche of requests for moratoriums on debt payments. The Council of State is urged to intervene directly in private transactions, allowing the actors to get delays and reductions in payments, or replacements of the goods that should be returned. This intervention of the royal institutions on the very delicate and sensitive fields of contracts and agreements between individuals, poses problems of great interest. Parallel to the research on Mercy, I'm doing a deeply analysis of these "contractual" petitions of the 1730s. They shed new light on the economic relationships of early modern societies.

¹¹ Cerutti and Vallerani, 2015.

taking them into account allowed the local government to "readjust the norm" through the integration of local idiosyncrasies. Let us make some examples: the numerous cases concerning the requests of pardon for the offense of felling trees in forests (lumber being part of the heritage of the king, intended for its fleet, it was strictly forbidden by law to appropriate it). The petitioners' arguments are far from confining themselves to beg for the King's benevolence, which a state of necessity should imply. In fact, they highlight their skills in managing the forest, the fact that shrubs had to be cleared to avoid blazes or to improve common resources. The inquiries on the territory that the petitioners request (involving the surveys of the local officials) lead to local readjustments of the law, and, indeed, to its implementation on larger territories but bespoke to each territory. It is also the same, for example, for requests for tax cuts presented by communities, whether they were caused by natural disasters or by (mass) emigration. Again, investigations ensued which adjusted the law according to the plurality of particular cases that petitions had put forward. Thus, the ambition and the capacity of the petitioners to intervene in the fields of government and jurisdiction are manifest; as other research has shown, they enabled central authorities to survey extremely thoroughly their territory.

In addition, in a variety of situations, petitions present themselves as suggestions to put in order laws that were perceived as obscure and sometimes contradictory, pointing out, for instance, the possible contradictions between the individuals' right to survival and that of the family, or in restrictive market policing measures.

Or, again, petitions were often successful in obtaining that a "delegate" of the King be instructed to intervene in a dispute that the Tribunal had difficulty solving. The parties not only proposed how the dispute should be settled, but even went as far as naming the person whom they had elected for this purpose. Each of these requests is put forward in the name of the specificity of the particular case and its total legitimacy within the normative system.

Petitions therefore oblige us to recognize the existence of a "local normativity" - based on the strength and legitimacy of the "case" - which was not necessarily alternative to that expressed by the central institutions, but had to coexist with it. At the same time, this local normativity claimed that they had the right to assess the effectiveness of government action, or the effectiveness of norms, and to request modifications to make it more suitable for local needs or special cases, all of this in the name of their legal competence expounded as fully legitimate and clearly integrated in the system of government.

This integration of the "particular case" into the government system has been emphasized by André Holenstein in his work on the variety of petitions addressed to the authorities of Baden

throughout the eighteenth century¹². Petitions must be read, Holenstein writes, as the expression of a system of government *through dispensation*, that is to say of a modality of government that he defines as centered on the "judicial technique of prohibition *unless* it be permitted " (here, the analogy with ecclesiastical dispensation is obvious). Through this technique of government, the authorities aimed at (at least in theory) having all cases, even those alien to the norm, be brought to the attention of the competent authorities, in the form of a dispensation; as a consequence, they could be dealt with by the bureaucratic machine. This operation allows for the toleration of the exception to the rule, if not, one could boldly assert, encourages it, as in the cases when certain goals could be better achieved through the exception. According to Holenstein, the exemption ought to be considered as a "logical legal integration". "Petitions are tools for the administrative control of the state, through which it ensures information on local contexts and the possibility of verifying the local effectiveness of rules". In short, to take petitions into consideration allows researchers to have an essential view on that administrative *praxis* which responded to the principle that the general law is valid *but subjected* to the grant of an additional license. Indeed, paradoxical as it may seem, the expansion of administrative activity depends on the expansion of the grace power of the territorial lord. From the point of view of the administration, this power consisted in seeking a compromise between the law and the handling of each particular case.

Holestein advances a proposition: not looking at things first from the point of view of the law and, then, from the point of view of the exceptions present in petitions; but on the contrary to reverse the perspective. If we place petitions at the center of our analysis, what stands out is that the administration was a matter of collaboration between social actors. Both the authorities and the subjects were well aware - Holenstein continues - that the implementation of the law hinged upon the handling of particular cases. That is why petitions do not oppose the law; it is rather its essential integration (hence the fact that the state's action was very often requested by petitions, and that it could happen that a branch of the administration requested the writing of petitions as a condition for its legitimate intervention)

Administration is indeed the *measure* of the implementation of the law .

Measure: this term brings us back to a conception of the exception that is very different from that put forward by the philosophical tradition in the wake of the work of Carl Schmidt (the state's power to suspend the rule of law by establishing a state of emergency; this conception has been recently by Giorgio Agamben). Rather, what is at stake here, as stated already, is *a form of*

¹² Holenstein A., 2002.

government based on exemption. As Massimo Vallerani has recently shown¹³, the term *dispensatio* translates the Greek term *economia*. This refers to the administration of property as well as the suspension of the rule, or its exception, because the link between these two moments is very strong. The *dipensator* is who distributes the material goods of the Church "according to everybody's needs", and thus taking into account the particular situations. Thomas Aquinas equates the dispensation with *commensuratio*, which refers to the evaluation of each person's material needs ("*cum pondere et mensura distribuit*"). This measure of equity is not so much linked to the exercise of charitable virtues as to an idea of *gubernatio*: this is an crucial point, because the assimilation of dispensation with charity - thus of petitions with charity - has often been put forward, while it is misleading (I shall come back to this). One governs through exemption because, indeed, the link is very close between *commensuration* as a system of measurement of particular situations, and *obedientia* , which, in return, can be requested from all the subjects.

This dimension of the *dispensatio* as a means to obtain a form of obedience from the subjects is of the greatest interest because it removes it from the field of the arbitrariness and places it at the center of the *gubernatio* for which what counts is the individual's adhesion, or at least its integration in an established order that lies even beyond the respect of the norm. The dispensation, therefore, does not refer to the benevolence of the lord, but rather to one of the terms of a pact that the rulers and the ruled happen to have sealed.

¹³ Vallerani M., 2009

3. Pact

Once stripped from the anachronistic connotation with which it is often referred to (paternalism, benevolence, deference, patron/client relationship etc.) can we qualify this relationship more precisely?

Let us go back to petitions, to their contents and especially, in this phase, to the consideration of the social identity of their writers. The samples, which we have scrutinized in the 1720s, although covering a large number of domains, are distributed very irregularly; a large majority – around 60% - fall into the requests for a favor (a position, a pension, a reward, a "charitable" aid in consideration of one's services...) which are addressed to the King by one of his officials, or by his dependents and servants; in other words, from members of " His Majesty's house". A large proportion of the petitioners fall into this category which includes a wide range of social figures depending on the King – many "fermiers", but also treasurers, "aides de chambre" , even valets. The remaining 40% is heterogeneous; women (widows or wives interceding on behalf of their husband) represent 12% of the total number of petitions; and then mayors, administrators, students, etc., people claiming to be poor and begging for aid.

Well, this large proportion, among the petitioners, of individuals linked by a special relationship to the King, which, indeed, really struck me, is not specific to the Savoyard State. They strongly echo the petitions that the French and English subjects addressed to their respective Kings between the 17th and 18th century for the former, a few centuries before for the latter, on which illuminating research spanning the 14th-16th centuries has been conducted. In France, although surviving series of petitions addressed to the King are rare, the petitions for the years 1655-1666 clearly evidence the similarities with the Savoyard case. Of the 800 petitioners who have been identified, ¾ belong to the court; not only courtiers, but also a group of people of various ranks, and soldiers too. All these people, like in the Savoyard sources, insist, in their requests, on the services provided to the King. Therefore, Jean Marie Bercé, who studied these petitions¹⁴, drew the conclusion that the King's audiences seem not to match the admitted image of a King listening to grievances of his subjects; instead, they appear to be occasions for rewarding servants close at hand, some of them of high rank but the majority being of modest condition, belonging to the lower world of the court. Petitions from the 'people' –by widows but also craftsmen, wage earners etc. - represent a very small percentage of the requests, in stark contrast with, again, the conventional picture. "The

¹⁴ Bercé J.-M., 2014.

contrast is striking in fact between the ideal image of a direct dialogue of the prince and the poor and the banal reality of the retribution of various agents of the state”

Similar considerations arose from the cases of British and German petitions. Beat Kümin and Andrea Wurgler write that, both English 'humble petitions' and German 'untertanige Suppliken' aimed to flatter their recipients. "This apparent emphasis upon deference and submission has led modern interpreters to stress the authorities' discretion or 'grace' toward poor people; whereas, "while there were, of course, countless pleas by individuals and genuinely impotent subjects, we also find lobbying by influential officeholders, powerful interest groups and urban magistrates".¹⁵ For earlier periods, in the case of England, these same observations have led some historians to advance another chronology, as well as an original framework for interpreting petitions. Gwilym Dodd who worked on petitions addressed to both the King and Parliament throughout the fourteenth century (hundreds of petitions were addressed each time Parliament convened, most of them to a specific body of the King's Council, the *Court of request*), tells us that "a survey of the status of the petitioners who presented supplications at parliament reveals in very striking terms that this was an institution that was used above all by a social elite. The majority of cases brought into parliament were matters that concerned the interests of the gentry, churchmen, bureaucrats and finance ... The predicaments faced by large numbers of petitioners in parliament stemmed in many cases from the consequence of a direct relationship which the petitioner enjoyed with the Crown"¹⁶. Therefore, Dodd advances a new interpretation of the origin of this form of communication: in the English case, petitions emerge as a specific documentary form at the end of the fourteenth century, in the context of Edward I's inquiries into the corruption of ministers; it was in this context that the King mobilized Parliament as a high court to which his subjects could appeal for justice.

Thus what we have here is another genealogy of petitioning, which brings us quite far from the requests for benevolence modeled on addresses to God (which, as we have said, is the genealogy most commonly retained). Obviously this new genealogy enables us to understand the features of English petitions, as we have seen: an instrument used mainly by officials and members of the royal house; but it also accounts for the French case, as well as the sources I am currently studying, in which, as we have seen, the presence of "civil servants" among the supplicants is overwhelming. A very targeted investigation will have to be carried out across the entire European continent to assess whether the English case may be used as a reference, or if royal regulations concerning the petitions arose concurrently across the continent. At any rate, this genealogy makes it possible to "take all

¹⁵ Kümin A. and Wurgler A., 1997, p. 53.

¹⁶ Dodd G., 2007, p.207.

sources seriously" and allows us to analyze them in a new light. By that I mean that historians (continental and English alike) , when confronted with the "trivial" nature of the majority of petitions demanding positions, salaries, etc. took on to focus their attention on the minor number of petitions, written by a public that appeared more interesting, composed largely of poor, miserable widows etc. In addition to meeting the expectations of historians to gain a more direct access to the people's voice, the 'poor's' petitions also had the advantage of adhering to the model of petitions that the ecclesiastical genealogy had built. Thus, for example, Dodd, the English historian on whose research I have relied, very explicitly states that "Rather than focus on the great body of petitioners who fall into these categories [the folk of the King's household], I will instead focus on petitioners who did not so readily fit this *conventional profile*"¹⁷.

On the contrary, I would like to reverse the perspective; and start from these conventional, banal petitions, and eventually propose, from that standpoint, an interpretation of the other petitions those of the poor, the widows, and the miserable. This should allow to have a general overview, I think, on this form of communication in early modern times.

Let us begin with a statement. It is clear that the large proportion of dependents of the royal house among the supplicants makes it necessary to challenge some postulates: the Grand Consiglio in Savoy, like the the English or French Chanceries were not an "extraordinary" jurisdictions, entrusted to regulate the exceptional: the major part of the supplicants indeed addressed their petitions to a 'normal' jurisdiction, the one to whom they were "naturally" subjected for they were dependents of the King. By endorsing their point of view , their requests do no longer appear exceptional, despite how they were consistently presented, but return to the scope of ordinary demands addressed by a dependent to his "natural", ordinary interlocutor. 60% of petitions fall within this framework; but this can also account for the characters of the most part of the remaining. Indeed, to be able to access this ordinary jurisdiction, you could not but be entitled to resort to it. It was therefore necessary to "build yourself" as a poor, a miserable, a "weak" vis-à-vis the law. This entitled you to appeal to this jurisdiction that implemented the monarch's particular favor toward "his men or women". The language of poverty that can be read in judicial sources and petitions is not a descriptive language of the social conditions of the social actors, but rather a legal language, referring to jurisdictional relationships. Confronted with this language, historians must distance themselves from contemporary categories. Throughout the history of the category of the "poor" there is one constant over the centuries that must be kept in mind: the love for and protection of the

¹⁷ Dodd G., 2007, p. 38.

poor are acts of political government. The remarkable “invention” of the category coined by bishops in the fourth century of the Christian era, masterfully analyzed by Peter Brown, is the first step in that story; but the legitimizing capability of the protection of the poor is evident also when they were passed into the hands of kings, especially the kings of France, between the thirteenth and fourteenth centuries. This consistent character forces us, first of all, to be wary of any attempt to equate the term to the meanings it covers today (according to the historian Giacomo Todeschini, during the Middle Ages and much of the modern age, the term “*pauper*” referred to a notion of absence, insufficiency, lack, of "minority", in accordance with the Latin word from which it originated: “*paulus*” -"a little of"; the concept of economic deprivation is instead present in the terms “*indigens*”, “*inops*” or “*egenus*”)¹⁸. Furthermore, this constant forces us to question that category across the spectrum of the jurisdiction to which it was submitted, and the rights that were attributed to it. The "poor" of the petitions are those who, from a position of weakness that may be economic or not, claim a right to the protection traditionally provided to them. Bishops before, kings later on, were the “fathers of the poor”. In the Savoyard state, the Dukes became the special protectors of this social category, granting it some important judicial privileges, such as free legal aid, thanks to the “poor’s lawyer”.

But then, let us go back to the general framework: the overwhelming presence of royal officials and dependents of the royal house, together with the poor, the miserable, the widows and minors, outline the framework of the social area of royal jurisdiction. Beyond what historiography (as well as our common sense) taught us, not everyone could access petitioning; it does not merely mean that you needed money or legal skills to do it (although obviously these were very important conditions); petitions were reserved for those who belonged to the monarch’s jurisdiction - whose ambition, we may well believe, was to enlarge it as much as possible in comparison with that of the other magistracies (a challenge which, still in the eighteenth century, was obviously far from being solved).

¹⁸ Todeschini, G., 2007.

4. Jurisdiction

Jurisdiction is a field of study by itself that ought to be re-invested by researchers. It refers to the capacity to "say the law" (*jus dicere*), that has been rightly identified as the main feature of exercising power in early modern societies¹⁹. It is from the standpoint of jurisdiction that we can measure the complexity of the normative system of these societies that are characterized by an increased competition concerning this right to "say the law" by a host of normative centers, each concurrently building up and relying on its own specific public.

The most famous definition of jurisdiction, coined by Baldo degli Ubaldi (*In feudorum usus commentaria, De allodiis, para Ad hoc, n.7, Venice 1580*) clearly emphasizes this relationship of interdependence: "Jurisdiction hovers on the territory as the fog on the marsh that it generates by the power of the soil [sun, according to some translations]". Jurisdiction is therefore not a unidirectional act of government: it is prompted by the 'soil'.

This capacity to govern, we learn from some medieval historians, does not fall within the category of ownership²⁰. One cannot own a jurisdiction; it is rather a form of possession, which must be constantly enlivened, nourished, and claimed. It cannot exist without a public on who exercise it. The Savoyard, French, English, German monarchs, the rulers of the Ottoman and the Chinese Empires, although crushed under the weight of petitions, during all the early modern period did keep on asking from their subjects that they address them petitions, over and over again. Petitions by themselves elicited the position of *jusdicente*. But the opposite is also true. It was the exercise of jurisdiction that engendered its audience, a collective (a social body), by establishing analogies between single individuals who were members of the same community. The poor, the people, the widows ... are all categories constituted by actions of jurisdictions. In short, jurisdiction turns the discontinuity of individual trajectories into continuity (that is to say, social bodies) . The obligations which are established in this relation between the rulers and the ruled "are not simply based on contracts", Baldus writes (as it would seem 'normal' to conceive it today); rather, we are confronted with obligations that are *real rights*: as such, one can protect them with possessory proceeding, acquire them by the passage of time...²¹. One must acknowledge (and this is a recent discovery) that in medieval and early modern societies, contracts were not the only source of legal obligation and social relationship. Personal statuses "could be treated as generating a kind of social rights.... There are obligations that depend on personal subjection: although they are not material things, yet they 'smell like real rights', as Baldus wrote". At the base of the relations established by

¹⁹ Costa, P., 1969; Hespanha, M., 1989, 1993.

²⁰ Conte, E., 1996 and 2012; Madero, M., 2017.

²¹ Conte, E., 2012, p. 42.

jurisdiction is not a contract therefore, but rather a pact based on the lack of contestation, on the continuity and the reproduction, across time, of requests (petitions!) and their responses in terms of protection, help etc.: absence of disputes, continuity and production / repetitions are all conditions that refer to the possession of things.

It is this interdependence that petitions stage; the contents of the relations between the rulers and the ruled are not to be read from pre-existing moral codes (the *culture* of the dominants and the *culture* of the dominated), but are defined and redefined during the relation itself. Deference and benevolence, which have often been considered as keys to the reading of petitions, thus give way to a relationship of mutual dependence, of course unbalanced in favor of one of the parties.

Thus, one can also understand one of the features of petitions that many historians have emphasized, yet giving an interpretation that seems reductive to me. In the words, again, of G. Dodd, referring to the fourteenth-century English petitions, "it is not at all clear that the term 'judicial' adequately or appropriately describes the nature of the business with private petitions generated. In many cases, private petitions did not ask for justice at all. Petitions brought before Parliament asking the King for a favor or for a reward are more appropriately classified as requests for royal largesse or patronage. Even those petitions more obviously requesting some form of legal redress might be better described in terms other than judicial ..."²². In fact, quite unexpectedly, it is not always a demand for justice that lies at the heart of petitions. Nor, on the other hand, does "the royal largess or patronage" reflect more accurately the form of the requests expressed. Studying them closely, and in line with the relationship of interdependence that we described above, petitioning appears to be a right to be listened: before asking favors or redress for injustices suffered, the supplicants first and foremost appeal to the right to be listened to by their own *judicente*. This right is embedded in a relationship of mutual dependence; is not a favor depending on the royal largeness. As a result, one can appraise to what extent the language of clientelism, which many historians employ to describe petitions, is in fact irrelevant, stripped, as it is, of this dimension of rights that we have just described.

Isabelle Thireau and Hua Linshan, whose research focuses on contemporary petitions that are addressed to the central government in China, have done important work on the field.²³ They have showed that people walking into the offices entitled to receive their requests, with a drum that they bang loudly. They call it "the petitioning drum". The claim to the right to be listened to could not be

²² Dodd, G., 2007, p. 18.

²³ Thireau I. and Linshan H., 2010.

more explicit. Needless to say how much, as a historian, I regret that ethnographic work cannot be part of my research.

5. Mercy

It is from this point that my seminar will set out. It shall be a means for me to pursue the analysis of the relations established by jurisdiction. The way I would like to follow is that of the analysis of the royal virtue constantly put forward in petitions, and which seems to be the ground for "the obligation to reply": i.e. mercy, for it is the King's mercy which is called out and it is the merciful king who listens to the supplicants. This language, belonging to the religious sphere, has also served as a basis for establishing the "religious" genealogy of petitioning that, in these pages, we have tried to challenge.

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