

## Grace and Justice in the Spanish Monarchy

### *Building Peace amid Conflict in Castile in the Seventeenth and Eighteenth Centuries*

▼ **ABSTRACT** This chapter examines the pattern of conflict-generation and peace-building in Castile during the early modern era. It includes a qualitative casuistic analysis of pardon appeals submitted to the king as a strategy to avoid harsh judicial sentences. The evidence allows us to reconstruct representative patterns for the Crown of Castile concerning the agents who operated in the judicial system and legal arenas, the resolution of penal conflicts, and the building of public peace. We also examine the meaning of royal grace as a superior power capable of resolving disputes, fixing judicial mistakes, and dispensing equitable decisions over a wide range of conflict scenarios. As such, this chapter presents a novel perspective on royal justice that emphasises the participative nature of justice and challenges the traditional viewpoints that have characterised Castilian justice during the modern era as a weak, corrupt, and repressive system.

On 29 November 1623, the local judge of the Cayón Valley, in the northern Spanish region of Cantabria, declared the principles on which his court rulings were based.<sup>1</sup> In his opinion, both he and other justice officials acted ‘as arbitral judges and friendly mediators [...] earning peace, and fulfilling our work, with Christianity’.<sup>2</sup> The legal culture of these local judges was chiefly empirical in

---

<sup>1</sup> This chapter is part of the research project *Culturas urbanas en la España Moderna-Urban cultures in Modern Spain* originally sponsored at the University of Cantabria first started with the support of the grant MINECO/FEDER, UE, HAR2015-64014-C3-1-R, and then carried out for publication under the grant PID2021-124823NB-C22 funded by MCIN/ AEI / 10.13039/501100011033/ and ERDF “A way of making Europe”.

<sup>2</sup> Valladolid, Archive Royal Chancery of Valladolid (henceforth ARCHV), *Pleitos Civiles* (henceforth PC), Pérez Alonso (Fenecidos), C-2030-2, fols. 110v–112.

character, yet it was supported by a tradition which they deemed to be 'immemorial'. From as early as the late fifteenth century attempts were made to improve judicial protocols; but even new procedures which were introduced still had flaws, through which the passions, emotions, and personal interests of those involved in legal processes could emerge.<sup>3</sup> This undermined the impartiality and legal rigour of the justice system, and hence, the judges who led the lower courts played crucial roles as 'friendly mediators': It was not only what was expected of a judge, but also what was expected of them as Christians. This moral reference was understood as key to making court rulings both efficient and lasting. In any case, the function of the court system was to restore public peace, often undermined by everyday conflicts, offences or abuses. Each instance of disorder had to be met with actions conducive to the restoration of order, even if it is not rare to find specific actions that went against these principles.

European historiography has approached these issues from various perspectives. The 2011 volume *Stringere la pace. Teorie e pratiche della conciliazione nell'Europa moderna (secoli XV–XVIII)*, edited by Paolo Broggio and Maria Pia Paoli, compiled studies that refer to different European contexts and traditions.<sup>4</sup> Numerous monographs have examined the legal and doctrinal framework of royal grace,<sup>5</sup> as well as the practices and casuistry of royal pardons.<sup>6</sup> The 2002 edited volume by Cecilia Nubola and Andreas Würgler, *Suppliche e gravamina. Politica, amministrazione, giustizia in Europa (secoli XIV–XVIII)*, explains the institutional protocols followed by the justice system in matters relating to grace and pardon from a variety of perspectives: from petitions appealing to God's mercy, to the incorporation of the issue into the political debate.<sup>7</sup> The vitality of the current academic debate takes on the importance of the seminal studies that laid the

3 Pedro Ortego Gil, 'Sine iustitia, immunitas. Justicia y parcialidad en la Real Audiencia de Galicia según la residencia de 1540–1543', *Initium*, 21 (2016), pp. 187–384.

4 For a more detailed description, see *Stringere la pace. Teorie e pratiche della conciliazione nell'Europa moderna (secoli XV–XVIII)*, ed. by Paolo Broggio and Maria Pia Paoli (Rome: Viella, 2011).

5 María Paz Alonso, *El perdón real en Castilla (siglos XIII–XVIII)* (Salamanca: Universidad de Salamanca, 1971). Other relevant Iberian contributions to this issue are Bartolomé Clavero, *Antidora. Antropología católica de la economía moderna* (Milan: Giuffrè, 1991) and Antonio M. Hespanha, *La Gracia del Derecho. Economía de la cultura en la Edad Moderna* (Madrid: Centro de Estudios Constitucionales, 1993).

6 *Le pardon*, ed. by Jacqueline Hoareau-Dodinau, Xavier Rousseaux, Pascal Texier, Cahiers de l'Institut d'Anthropologie Juridique 3 (Limoges: Presses Universitaires de Limoges, 1999). This is a collective, interdisciplinary, European-wide contribution. On 18<sup>th</sup>-century Spain: Tomás A. Mantecón, 'Criminals and royal pardon in 18th century Spain', pp. 477–506.

7 These two perspectives are represented in Renate Blickle, 'Intercessione. Suppliche a favore di altri in terra e in cielo: un elemento dei rapporti di potere', and Angela de Benedictis, 'Supplicare, capitulare, resistere. Politica come comunicazione', in *Suppliche e gravamina. Politica, amministrazione, giustizia in Europa (secoli XIV–XVIII)*, ed. by Cecilia Nubola and Andreas Würgler (Bologna: Il Mulino, 2002), pp. 367–408 and 455–72.

foundations for these matters to be analysed, and it should continue to focus on social aspects.<sup>8</sup>

Despite being keenly aware of all the implications of their duties, judges also committed irregularities; some of their rulings were certainly tainted by human fallibility as well as emotion, passion, and self-interest. All these factors are at play in the practice of distributive justice.<sup>9</sup> This chapter examines these issues of contingency and investigates the construction and maintenance of public peace. It analyses the casuistry of processes submitted to high Crown courts, concentrating specifically on pardon appeals, the purpose of which was to mitigate the harsh sentences imposed by the lower courts. With a broader perspective in mind, we have also selected files submitted to the Chamber of Castile and the Secretary of Grace and Justice. In all these cases, the persons involved had some connection with the northern Spanish region of Cantabria (although the crimes may have occurred elsewhere in the Crown of Castile's dominions). This common geographical origin of the protagonists establishes a homogenous cultural and social background for all the cases, while the specific circumstances and the measures undertaken to re-establish public peace present a sufficiently wide spectrum to allow us to define representative patterns for the whole of Castile during the period under consideration. This article examines the agents and scenarios related to the administration of justice, the resolution of criminal cases, and the construction of public peace. It also discusses the relationship between the administration of justice and the granting of royal pardons, as the King had the absolute power to reverse judicial errors, impose equitable solutions, intervene with authority, and decide upon the means of re-establishing public peace.

- 
- 8 Claude Gauvard, *De grace especial — Crime, État et Société en France à la Fin du Moyen Âge* (Paris: Publications de la Sorbonne, 1991) and 'L'image du roi justicier en France à la fin du Moyen Âge d'après les lettres de rémission', in *La faute, la répression et le pardon. Actes du congrès national des sociétés savantes Brest, 1982* (Paris: Ministère de l'Éducation Nationale, 1984), pp. 165–92; Natalie Z. Davis, *Fiction in the Archives: Pardon tales and their tellers in sixteenth-century France* (Cambridge: CUP, 1988); Aline Goosens, 'Les grâces et rémissions de peine pour hérésie et transgression des ordonnances accordées par Charles-Quint et Philippe II dans les Pays-Bas méridionaux, 1521–1598', *Cahiers d'Histoire. La Revue du Département d'Histoire de l'Université de Montréal*. Special issue: *Clémence, oubliance et pardon en Europe, 1520–1650*, 16:2 (1996), 8–20; Marjan Vrolijk, *Recht door gratie. Gratie bij doodslagen en andere delicten in Vlaanderen, Holland en Zeeland (1531–1567)* (Hilversum: Verloren, 2004); Marjan Vrolijk and Hugo de Schepper, 'The other face of struggle against violence: Peace of order by clemency in the Netherlands, 1500–1650', in *Janus at the Millennium. Perspectives on Time in the Culture of the Netherlands* ed. by Thomas F. Shannon and Johan P. Snapper, Publications of the American Association for Netherlandic Studies, 15 (Lanham: University Press of America, 2004), pp. 279–95.
- 9 Tomás A. Mantecón, 'El mal uso de la justicia en la Castilla del siglo XVII', in *Furor et rabies: violencia, conflicto y marginación en la Edad Moderna*, ed. by José I. Fortea, Juan E. Gelabert and Tomás A. Mantecón (Santander: Editorial UC, 2002), pp. 69–98.

## Agents of Justice

Frequently, court officials operated under great pressure, which often affected the outcome of judicial processes.<sup>10</sup> Some defendants, in both civil and criminal cases, submitted appeals to higher courts to protect themselves from the abuses committed by local judges. For instance, the public notary Joaquín Mioño, from Castro Urdiales, was locked up and chained alongside a number of his neighbours for taking part in a bloody tumult that involved several peasant communities in the mid-eighteenth century. The conflict between these communities seems to have stretched back decades, beginning with a disagreement over forest boundaries, flaring up intermittently and with great violence; the conflict. The procurator that represented the Guriezo Valley, one of Mioño's counterparts in the same criminal process, also appealed for the protection of a superior court. The process was finally examined by the Chancellery of Valladolid.<sup>11</sup>

In Castile, at a local level, the administration of justice intervened to resolve specific conflicts by applying shared traditional principles that were based on laws, customs, precedents, and local practices. At this local level, the administration of justice was highly empirical and adaptable to the circumstances of each case.<sup>12</sup> That is, justice rested on legal principles, but also custom and agency, in both the New and Old Worlds.<sup>13</sup> Judicial arbitration constituted the ideal setting for a complex conversation between the individuals involved in court cases, the

- 
- 10 Several recent publications have examined bad judicial practices in Modern Castille: Tomás A. Mantecón, 'El mal uso de la justicia'; Lorena Álvarez, 'Juegos de estrategia en los tribunales. Planteamientos tácticos entre partes litigantes a través de un proceso inquisitorial complejo del siglo XVI', *Clio & Crimen*, 10 (2013), pp. 471–97; María Barcina, 'La construcción de galeones en el Corregimiento de las Cuatro Villas de la Costa. Usos y abusos del Corregidor: el caso de Martín de Arana', *Clio & Crimen*, 11 (2014), pp. 121–34.
  - 11 ARCHV, *Pleitos Criminales* (henceforth PCR), sig. C-114-1, fols 24, 25 (1767). On the political culture that pervades this conflict, see Tomás A. Mantecón, 'Cultura política popular, honor y arbitraje de los conflictos en la Cantabria rural del Antiguo Régimen', *Historia agraria*, 16 (1998), pp. 121–51.
  - 12 Clavero provides an excellent synthesis in Bartolomé Clavero, 'Gracia y Derecho. Entre localización, recepción y globalización (lectura coral de las vísperas constitucionales de António Hespanha)', *Quaderni Fiorentini*, XLI (2012), pp. 675–763. Examining juridical culture and judicial practice in Modern Spain from a historical perspective, Alejandro Agüero has pointed out that 'the transcendent conception of law, the normative value of local customs, the dominant casuism in legal reasoning, and the possibility of invoking reasons of convenience related to the local context, produce an effect of *localization* of law and justice that fuelled a strong sense of self-government', Alejandro Agüero, 'On justice and *home rule* tradition in the Spanish colonial order. Criminal justice and self-government in Córdoba del Tucumán', *Quaderni Fiorentini*, 41 (2012), pp. 173–222 (p. 221).
  - 13 Carlos Garriga, 'Sobre el gobierno de la justicia en Indias (siglos XVI–XVII)', *Revista de Historia del Derecho*, 34 (2006), pp. 67–160. Some time ago, Antonio Hespanha investigated different spaces for the administration of justice beyond the state. Antonio M. Hespanha, 'A administração e o direito não oficiais no sistema político do Antigo Regime', *AHDE*, 57 (1987), pp. 737–58. He particularly underlined the impact of local and social factors in the negotiation of conflict (p. 738).

courts of justice, the court officials, and the social environment within which the conflicts occurred.<sup>14</sup>

This conversation occurred in both lower and higher courts of law and also out of the court. Appeals submitted by well-off defendants to higher courts had a better chance of a favourable ruling from these higher courts than the lower courts, especially when the conflict involved two powerful local factions.<sup>15</sup> On such occasions, the public prosecutor and the clerk appointed by the chancelleries assumed active investigative roles, often travelling to the scene of the events. There, they interrogated witnesses and undertook to try to solve the conflict, effectively constructing a space of judicial negotiation. However, the 'conversation' thus triggered was not only judicial but also extra-judicial, as the court officials involved the parties in a process of interaction that unfolded parallel to the court case. These negotiations could reach the highest political chambers of the realm and even involve the Crown. On such occasions, the king was asked to grant his grace by pardoning offences and commuting penalties (either already formally pronounced or expected). Historians have examined this issue in some detail, especially about the medieval roots of these ramifications for the justice system.<sup>16</sup>

Negotiations concerning pardons, which were generally related to grave events, were much less frequent than other, less important, issues. In the Holy Roman Empire, for instance, most such appeals in the Ancient Regime were related to crimes involving physical violence, sexual offences, and robbery, as well as, to a much lesser extent, contempt, public disturbances, and confrontations with the police.<sup>17</sup> In Spain, the issues that motivated appeals to royal grace changed throughout the seventeenth and eighteenth centuries. Here, the general casuistry was similar to that in the Holy Roman Empire, but there are some important differences which should be noted. In Castile, most appeals submitted by members of the popular classes were connected with cases of manslaughter. This pattern comes through in the available data collected by the Chamber of Castile, concerning the pardoning cases dealt with by the monarch (who constituted the last possible court of appeal, referred to as *al quitar*), these cases amount to more than half of the appeals submitted in the seventeenth century, and also according

14 *El arbitrio judicial en el Antiguo Régimen. España e Indias, siglos XVI–XVIII*, ed. by José Sánchez-Arcilla (Madrid: Dykinson, 2013), stresses just how relevant this matter was. Specifically, Pedro Ortego Gil, 'El arbitrio de los jueces inferiores: su alcance y limitaciones', pp. 133–220, deals with the arbitrating role of local judges and explains the doctrinal foundations of the practices analyzed in this paper.

15 See Tomás A. Mantecón, 'La acción de justicia en la España Moderna: una justicia dialogada, para procurar paz', *Stringere la pace*, pp. 333–68.

16 See, for instance, the synthesis provided in Roberto J. González Zalacaín, 'El perdón real en Castilla: una fuente privilegiada para el estudio de la criminalidad y la conflictividad social a fines de la Edad Media', *Clío & Crimen*, 8 (2011), pp. 289–352.

17 Quantitative estimates are based on data from the principality of Magunzia. Karl Härter, 'Negoziare sanzioni e norme: la funzione e il significato delle suppliche nella giustizia penale della prima età moderna', in *Suppliche e gravamina*, pp. 263–306.

Table 1. Offences and crimes behind pardon appeals, 17<sup>th</sup> and 18<sup>th</sup> centuries.

| OFFENCE OR<br>CRIME<br><br>(DATA IN %) | APPEALS SUBMITTED TO THE<br>CHAMBER OF CASTILE ( <i>AL QUITAR</i> ) |        | PARDONS GRANTED  |
|--|---|--------|--|
|  | 1625  | 1665   | 1760-1788  |
| Manslaughter and deliberate homicide   | 49.40   | 45.16  | 82.47 (manslaughter or accidental homicide)<br>11.55 (deliberate homicide) |
| Actual bodily harm                     | 13.20   | 26.87  | -  |
| Concubinage                            | 6.60  | -      | -  |
| Pimping                                | 3.20  | -      | -  |
| Sexual harassment                      | 1.00  | -      | -  |
| Adultery                               | 4.30  | -      | -  |
| Prostitution                           | 4.30  | -      | -  |
| Forgery                                | 9.80  | 8.60   | -  |
| Robbery                                | 3.20  | -      | -  |
| Usury                                  | 1.00  | -      | -  |
| Contraband                             | 1.00  | -      | -  |
| Contempt                               | 1.00  | 18.27  | -  |
| Breach of exile                        | 1.00  | -      | -  |
| Escape                                 | 1.00  | 1.10   | -  |
| Other offences                         | -   | -      | 5.98   |
| Total                                  | 100.00  | 100.00 | 100  |

Sources: AGS (General Archive of Simancas), *Cámara de Castilla*, legs.1742–1748 and 1908–1912; AGS, *Gracia y Justicia*, legs. 874–75. Pardon appeals: 91 in 1625, 93 in 1665 and 311 in 1760–1788.

to the *Gracia y Justicia* files from the period 1760–1788. In the eighteenth century, manslaughter was the cause of as many as four out of every five appeals.

If we add other violent crimes to the cases of manslaughter and deliberated homicide, over two-thirds of the pardon appeals –concerning already pronounced or expected penalties– submitted in Castile during the seventeenth century were related to violent episodes. Other offences on the list were related to some form of sexual harassment, with or without physical violence. Offences such as robbery,

forgery, contraband, contempt and disobedience featured less often in the files of the tribunals which dealt with pardon appeals in the Spanish Monarchy.

Guided by the theoretical perspective, this chapter works with the aforementioned limits, contexts, and historical experiences. Although we do not wish to neglect the logic and practices that informed the actual exercise of royal grace, we want to focus especially on the subjects and the circumstances that led to the appeals. The supplicant's social position –whether they were an accepted part of the social body or whether, in contrast, they can be regarded as having been socially isolated when they committed their crimes — the factors that may have played a role in the events, and how these factors affected the outcome of the petition will be examined. The resulting analysis will permit the reconstruction of the circumstances being judged, as well as the means of mitigation and the restoration of peace in Castile during the *Ancien Régime*.

## Solving Conflicts: A Matter of Monarchy

The civil and criminal causes which we are analysing were largely, but not solely, judged by the tribunal of the Chancellery of Valladolid, one of the highest courts of justice in Spain during the early modern age. The archive of this chancellery provides abundant source material concerning the judicial conversations about the cases it dealt with. These ‘conversations’ were also social and, ultimately, constitutional, for they affected one of the constituting elements of the Spanish Monarchy, that is, the subjects and their judicial actions. According to the diplomat Diego de Saavedra Fajardo, in 1640, the apparatus of the Monarchy was outlined by the justice system, which pervaded both the local contexts and the central government. Peace-seeking debate, social and judicial negotiation, and agreement were necessary: covenants had to satisfy perpetrators, victims, and the judicial apparatus.<sup>18</sup>

The Chancellery sometimes proceeded to involve and appoint special judges, who travelled to the scene of the events and operated at a local level, far from their more common territorial anchor point. In these cases, the judges engaged with local social codes unfamiliar to them, which constrained their ability to gather evidence. The defendants, for their part, were firmly grounded in this local social context, which tilted the balance in their favour. This is, demonstrated by the certain degree of impunity enjoyed by Pedro de Oruña, who was a member of a noble family from the eastern coastal region of Cantabria. This local magnate had turned into a highwayman and eventually joined a band of gipsy bandits, which included men and women. The gang proved to be remarkably cohesive, owing to their ethnic, cultural, professional, emotional, and sexual links. After joining the

---

<sup>18</sup> Diego Saavedra Fajardo, *Empresas políticas o idea de un príncipe político-cristiano* (Madrid: Editora Nacional, 1976), pp. 99, pp. 222–23 and p. 227. *Empresas* 4, 20 and 21.

gang, Don Pedro de Oruña became fully 'gypsified' and engaged to one of the female members of the gang.

On 28 November 1681, the heir of the Agüero family brought a case against the procurators of the councils of Agüero, Setién, Castanedo, Rubayo, and Orejo, for allegedly protecting the bandit and putative gypsy Pedro de Oruña, who by that time was known as *Montecillo*. The plaintiffs, the Agüero family, appealed to the Chancellery in Valladolid, as they could not trust the lower courts, 'owing to the gravity of the crimes and atrocities, and owing to them being powerful people, who are in league with one another and with the judges and clerks, who are all of them their relatives or their clients.' The plaintiff was, therefore, demanding institutional protection not only from the bandit but also from the social environment that protected him — that is, the social network that sprawled around the house of Oruña, which in the Merindad de Trasmiera controlled council governments and cornered their rivals of the Agüeros family.<sup>19</sup>

Eventually, the Chancellery of Valladolid convicted this *Montecillo*. His excesses made punishment inevitable after he was captured in the town of Laredo, and he was sent to a penal ship in Cartagena. On his way as a convict from Cartagena to a North African military destination, he managed to escape even after boarding.<sup>20</sup> This kind of situation, involving an individual who had committed grave crimes but managed in the end to get away, was less uncommon than one could anticipate in Cantabria well into the eighteenth century, both in local districts and in urban environments. Those defendants who had economic means and social support at the local level often bent the judicial proceedings to their favour, appealing to the higher courts if necessary, to avoid a harsh condemnation or, later, the execution of that.

Another example is that of Don Lorenzo de Quevedo y Santa Cruz, a resident of La Serna, in the Iguña Valley, also in Cantabria. Don Lorenzo was often heard boasting about committing abuses and coercing his neighbours. In 1719, he had managed to halt, for as long as two years, a criminal case taken against him by the court of Buelna; he even avoided arrest, despite his illegal cohabitation with a woman and the fact that his repeated illegitimate and irresponsible paternity was notorious. When one of his lovers was pregnant, a neighbour warned him of a possible arrest, but he replied that 'he was not worried, because he had the means to defend himself in Valladolid.'<sup>21</sup> Don Lorenzo knew what he was talking about. Processes could be dragged on indefinitely, and while they passed from the jurisdiction of one court to another (even when royal grace and pardon had been requested), all the separate parts continued with their parallel negotiations, and

19 ARCHV, PCR, C-309-2, fol. 17 (Agüero, Trasmiera, 1681); ARCHV, PCR, C-163-3, fol. 101v (Toranzo Valley, 1745); ARCHV, PCR, C-369-7, fols. 1-5v (Reocín Valley, 1787).

20 An analysis of the case of *Montecillo* is undertaken within the context of Cantabrian power structures in Tomás A. Mantecón, *Conflictividad y disciplinamiento social en la Cantabria rural del Antiguo Régimen* (Santander: PubliCan/Fundación Botín, 1997), pp. 409-36.

21 ARCHV, PCR, C-152-3, fol. 50v (Iguña Valley, 1719).



this could easily result in an extrajudicial agreement which either brought the case to a halt or which facilitated a pardon being issued.

In general, judicial arenas acted as spaces for negotiation between the parties and the institutions, and this resulted in the application of *ad hoc* empirical justice. A very different example stems from a woman called Gertrudis Rodríguez and her daughters, from Nestares, near the town of Reinosa (where the lower court was based). She requested the Chancellery of Valladolid in 1794 after her husband's sexual advances (and maybe more) toward his own daughters. Gertrudis and her daughters Agustina — who was already married and living in Barrio, in the Marquisate of Argüeso — and the eighteen-year-old María Antonia demanded judicial protection from their husband and father, Juan de Terán, who was seventy at the time. They wanted to escape Juan's often violent domination, and, most of all, they wanted to avoid at all costs the tailor's incestuous wishes with his daughters, especially the youngest, who was still living with her parents and who was economically dependent on them.

The case was labelled 'reserved' by the Chancellery of Valladolid, and the Corregidor ('governor and chief magistrate') of Reinosa was instructed to deal with the cause 'in secret', arresting the tailor, who was a repeat offender, and ensuring the safety of his wife and daughters. After a year and a half, a court declared that more evidence was needed to sentence the lascivious tailor. The tribunal, however, indicated that it was the justice system's responsibility to prevent Juan de Terán from molesting his wife and daughters again. The man was warned that severe punishment would be administered if the chancellery heard about any more abuses, but the truth is that he had gotten off lightly.<sup>22</sup> It is pretty safe to assume that the court's decision did not dampen the desires of the libidinous tailor. As a result, the ability of his wife and daughters to stop him from imposing his will upon them depended on their neighbours in the village of Nestares. The imperfections of the legal system often activated the need for local forms of social control between the victims and the perpetrators.

In some cases, however, the accused enjoyed even greater impunity. A little more than a decade earlier, Don Manuel Francisco de la Puente was appointed the deputy of the Duke of Frías, with jurisdiction over the valleys of Soba, Ruesga and Villaverde de Trucíos. His neighbours described him as 'corrupt', 'tyrannical', 'greedy' and 'lascivious'. In 1782, Don Manuel, who operated under the protection of 'superior powers', disabled his potential substitute and leader of a mutiny on New Year's Day, Don Nicolás de Corral.<sup>23</sup> Don Manuel believed that the intervention of the King, through the high courts, undermined the patronage networks that effectively hampered the administration of justice, which the Duke of Frías theoretically exercised in the King's name. His rival, Don Nicolás, was deprived of judicial protection, perhaps because of the tumultuous way in which he had tried to take authority from his enemy, which made his actions appear

<sup>22</sup> ARCHV, PCR, C-312-2 (Nestares, Reinosa, 1794–1795).

<sup>23</sup> ARCHV, PCR, C-108-2, fols 319–320v.

somewhat seditious. The Duke of Frias's support of Don Manuel must have also played a part. In the end, all Don Nicolás achieved was to be fined 200 ducats and disqualified from holding any jurisdictional or public office in the subsequent three years. The process also resulted in fines being imposed on the main supporters of Don Nicolás de Corral: Don José del Corral (his father), Ginés Ortiz (his future brother-in-law) and Manuel Zorrilla, who was also a relative. They were also told to pay Don Manuel Francisco de la Puente's legal costs.<sup>24</sup> This sort of extrajudicial negotiation was common throughout the early modern age, even after the appeal protocols had become fully formalised and institutionalised.

## The (Re)construction of Public Peace

During the period from 1724 to 1780, the Chamber of Castile dealt with four pardon appeals submitted by individuals who had some connection (in some cases quite vague) with Cantabria. These cases had previously been examined by the Chancery of Valladolid, which issued detailed reports. Although the reports were very different in nature, all four of them achieved their purpose, a royal pardon of the defendant. Analysing these documents is especially interesting for several reasons. The defendants had very different personal profiles, and the circumstances which were being examined also varied greatly, as were the reactions of the immediate social context, for example, concerning the social integration or exclusion of the defendants. As such, these cases may be considered archetypal of the peninsular regions of the Crown of Castile. During the early modern age, the northern Spanish regions of Cantabria, Asturias, and Galicia witnessed a sustained loss of population owing to emigration, and some of the episodes in the judicial records analysed in this chapter involved Cantabrian emigrants in other regions. Studying these records provides valuable evidence about the precarious social integration of immigrants in their new urban Castilian contexts.

The four applicants for royal grace include a man called Fernando López de Bustamante, from Bárcena de Toranzo, in 1761; the brothers Pedro and Juan Barrón, who were from Elechas, in Merindad de Trasmiera, but were at the time working in Valdemoro, in 1763; Francisca Concejo, a prostitute from Reinosa living in Madrid (which will be discussed in the next and final section), in 1771; and Don Raimundo de la Huerta, from Escobedo de Camargo, in 1780. To this list, we must add Don Luis de Villegas, from Valle de Carriedo, who had been accused, processed, and sentenced for double statutory rape in 1724.<sup>25</sup> Our analysis of these archetypal examples does not intend to be exhaustive but to present a

<sup>24</sup> ARCHV, PCR, C-108-2, fols 305–305v, 314–314v. A very similar case is that of Don Gregorio de Miera, former captain of the Laredo Regiment and mayor of the Cayón Valley between 1813 and 1816. He managed to reach an extra judicial agreement while his allegedly corrupt actions as the head of the Cayón Valley tribunal were being examined: ARCHV, PCR, C-267-4.

<sup>25</sup> All these files are in AGS, *Gracia y Justicia* (henceforth *GJ*), leg. 875.

representative framework which permits the study of conflict and the restoration of public peace in Castile during the modern age. This analysis must, however, be complemented in the future by a precise and comparative examination of conflict resolution in other contexts within the Spanish Monarchy.

These judicial records illustrate interesting differences between the actual deeds, the contexts in which they took place, and the measures taken in the relevant institutional and social contexts to restore public peace and resolve the judicial problems. The personal circumstances of the defendants reflect the social position of each of the parties involved, as well as the impact that these events had on the social fabric. The information conveyed by the judicial records, although referring to very specific circumstances, alludes to global problems. For this reason, each of these episodes may be regarded as the tip of an iceberg formed of the complex problems that beset preindustrial societies. Invariably, these cases lead us to tales of violent deeds, although the impact of such deeds was very different according to the circumstances surrounding each specific case.

The first case concerns Fernando López de Bustamante, a married man from Bárcena de Toranzo, Cantabria, and he was a well-regarded member of his community. On 20 September 1760, at the age of twenty-two, Fernando caused the death of his brother-in-law and neighbour, Simón Trueba. The death was the result of a brawl, which occurred when both the perpetrator and the victim were 'full of alcohol'. Several neighbours intervened to break up the fight, but while getting up from the ground, Fernando threw a stone at his brother-in-law, hitting him in the temple. Although Simón got to his feet by himself and reached his house, he died during the same night. On hearing this, the murderer sought refuge on 'sacred ground', 'where he was illegally apprehended by the judicial vicar [who had] arrived from Santander'. In early 1761, the defendant was sentenced to six years internment 'wherever the criminal court of the Chancellery of Valladolid decides'; in that same year, however, the King granted him a pardon. The extenuating circumstances that tilted the scales in his favour were 'the immunity which he is owed' for having sought refuge in holy ground, his age, the fact that both he and his victim 'had drunk a good deal of wine', and the lack of premeditation (he 'was not carrying arms to suggest any previous intent').

A second case happened a year later, when the mayor of the village of Valdemoro, south of Madrid, initiated criminal action against the brothers Pedro and Juan Barrón. These two masons were both over twenty-five years of age and registered as residents in Elechas, Cantabria when they were prosecuted. The case was seen by the *Sala de los Alcaldes de Casa y Corte*, in Madrid. The Barróns were accused of causing the death of Alfonso de Cubas, a blind man in his eighties, and injuries to other people at dusk on 18 July 1762. The brothers were employed in the construction of the road to Aranjuez at the time. On the day of the incident, both brothers went to a tavern in Valdemoro, where an auction (the lot was a piece of salted meat) to collect funds for the Brotherhood of the Souls in Purgatory was happening. One of the two brothers made a bid that led to a brawl between the working gang and the residents. In the midst of the confusion,

someone hit Alfonso de Cubas by accident and he was critically injured. The *Sala de los Alcaldes* sentenced Pedro and Juan to confinement in a military prison for ten and six years, respectively. In 1763, both were pardoned, but under certain conditions: 'in order to prevent further tragedies, if the two defendants present themselves in the village of Valdemoro they should be exiled outside ten leagues from this court'. The royal pardon commuted the sentence: the King considered that the punishment which had already been administered was sufficient to restore the peace at the scene of the crime. It is clear that the restoration of public peace involved considering a large number of factors.

A third case happened a few years later, in 1780, when the carpenter Raimundo de la Huerta, a married man of twenty-three, resident in Escobedo, Camargo Valley, Cantabria, was in the royal prison at Valladolid. This was a result of his injury of one of his neighbours, a young single man called Manuel de la Calleja, from the nearby village of Beranga. The events took place on 20 September 1779 and resulted in the death of the young man at six o'clock the following morning. Raimundo and Manuel were working alongside a few other men in a local mill. They were eating their food in the mill's kitchen, in two groups or *ranchos*; Manuel and Raimundo were not sitting in the same group. Another man, Santiago Martínez, was in Raimundo's *ranchito*, but he said aloud that he did not want to eat with Raimundo, who 'punching him, grabbed a stool in order to throw it at him, but it has not been proven that he did so'. On seeing this, Calleja told Santiago that 'he'd let Huerta beat him up'; Huerta replied that 'if Calleja wanted to stand for Santiago, he could do so'. They insulted each other and Calleja went for Huerta, who stabbed him with the knife 'which he was using to cut the ropes'. The injured man managed to grab Huerta with assistance from the rest of the men, until the authorities arrived to arrest him. Calleja died soon afterwards.<sup>26</sup>

The incident happened in the presence of nineteen eyewitnesses, all of whom were members of the work gang and were eating together. All of them gave the same account. The wound was lethal, and it was caused by a knife 'eight fingers long and two-and-a-half broad'. The Chamber reported that 'the heated exchange and the fact that he had the knife in his hand when it occurred, made the crime less grave'. Huerta was pardoned. Indeed, he applied for pardon even before the sentence had passed, and had a potential death sentence commuted in favour of a five-year exile in military services in 'one of the African fortresses'. Breaks during the working day stimulated social interaction between members of working gangs, but this interaction was not always friendly. The smallest incident, so common among relatives, drinking parties, and work colleagues, could lead to a tragic outcome. The previous examples illustrate how crimes could be committed against family and friends, while Calleja's death is a good example of a brawl occurring in a workplace.

---

<sup>26</sup> AGS, GJ, leg. 875, without pagination.

In all of these cases, the relative youth of the persons involved is a common feature: none of the defendants had yet reached thirty years of age. The first of these cases took place within the community, and was the result of a dispute between relatives. In the other two cases, the grouping of members in a working gang (either based on professional ties, places of origin, or other links) was a factor that affected the social setting and the ultimate outcome of the conflict.

The file that refers to Fernando López is the least explicit. It refers to a dispute within the basic social unit: the family. Tensions within this social unit could flare at any time, as a consequence of specific circumstances in which random events also had a hand. The proximity of the neighbours and the social control they exerted could contribute to restoring order in a rural community, which would have been directly affected if violence took over.

In this case, the violent death that the case led to also involved the political sphere surrounding the family, as well as their immediate neighbours. Aware of the gravity of the situation, the defendant sought refuge on sacred ground, which was an appeal to the paternalist protection of the Church. This response also suggests the internalisation of a set of references, which, as previously noted, combined ethical, political, juridical, and religious values, references which were also shared by the judges in their arbitral role, and even by the legal traditions of Castile. Although individuals may not have been consciously aware of being the 'bearers' of these traditions, such traditions shaped attitudes and behaviours. Sacred ground was believed to grant immunity, and this fact facilitated the eventual pardon or the commutation of sentences. Families, neighbours, and, sometimes, social factions, operated as instruments of social control to restore the order of the peasant community.

The Barrón brothers, for their part, were temporary immigrants in Castile. They were earning a salary to complement the income resulting from the agricultural and stock-breeding activities that they undertook in their home region. Calleja and Huerta were in similar circumstances. They were all part of a considerable number of peasants from northern Atlantic Spain who, every year, migrated to undertake seasonal work in interior Castile or Andalusia.<sup>27</sup> In the case of the Barrón brothers, violence was channelled towards the inhabitants of Valdemoro. The account of the incident suggests that the working gang was internally cohesive while Juan and Pedro would be considered outsiders. The auction in favour of a local brotherhood was an occasion for tightening neighbourly ties, and the interference of the outsiders explains the violent outcome.

At the time, the Barrón brother's bid was viewed as a provocation, and it was followed by an exchange of insults and blows. The outcome precipitated a

---

<sup>27</sup> This seasonal migration was particularly intense in the years surrounding the two episodes described, specifically the periods 1671–1690 and 1751–1760. This phenomenon reoccurred in 1760–1780 due to the intensification of economic activity between the Cantabrian ports and the interior of Castile, following the enactment of the free-trade decrees and the opening of maritime traffic between Santander and the Antilles.

*new order* of reciprocal tension between both frameworks of solidarity, between, as it were, the two communities, even though in one group (the working gang) the solidarity ties were based on a professional relationship and were, therefore, ephemeral, while in the other hand the solidarity ties were also historical and familial. The boundaries of the relationship between both communities were being defined, as the report recommending the pardon suggests. Rather than being punitive, the eventual sentence of exile was preventive and corrective in character.

The case of the carpenter Raimundo Huerta exemplifies some of these points even further. It suggests that the professional solidarity among foreign workers could be broken by internal subdivisions that could even stand between workers of common origin. In this case the aggressor and the victim came from nearby locations, but the crime was judged by the Chancellery of Valladolid, for it had been committed within its territorial jurisdiction. In professional settings, and in situations where people from a given professional setting interacted socially, groups were crisscrossed by different fault lines of potential division. These lines would often correspond to geographical origin and to the implementation of strict ethical and social codes. The grouping of workers at mealtimes reflected these divisions, as is illustrated by the brawl and the tension between the men in the group. The tragic outcome may have resulted in a new equilibrium, although this new equilibrium did not necessarily preclude further violence. The two files analysed in the following paragraph involve a new element of violence: sexuality. The involvement of sexuality meant a different type of conflict and, accordingly, called for a different response from the justice system.

## **Justice *in action* and Royal Grace**

Early modern justice aspired operating in a balanced way: the aim was not to systematically dispense harsh punishments and to set examples to the rest of the people, but was rather to adopt a flexible stance that restored a social equilibrium for everyone while clearly outlining the limits of acceptable behaviour. Circumstances in which the offence occurred, had an effect not only on the judicial decision that followed, but on the restitution of public peace. Hence, there was a wide spectrum of extenuating circumstances that made the concession of a royal pardon more likely. A category of such extenuating circumstances referred to the inability of the defendant to control his or her own actions (consciously or unconsciously) because of certain factors; these included drinking alcohol, gambling, madness, youth, or old age, as well as the crime having taken place in the middle of a tense situation, such as a brawl, a fight, or even conjugal conflict. Less often, pardons were justified by the offence having been committed in self-defence, or by the otherwise laborious and peaceful character of the perpetrator. The role of passion in obscuring the judgement of perpetrators was also often taken into

Table 2. Circumstances conducive to the concession of royal pardons and commutation of sentences (Castile, 1760–1788).

|   | ACCIDENTAL<br>HOMICIDE<br>(MANSLAUGHTER) | DELIBERATE<br>HOMICIDE | OTHER<br>CRIME | TOTAL  |
|---|--|------------------------|----------------|--------|
| Drinking and gambling                               | 33.44                                    | 20.68                  | 6.67           | 30.28  |
| Self-defence, brawl, fight                          | 19.80                                    | 10.34                  | 6.67           | 17.93  |
| Youth   | 11.59                                    | 3.45                   | 6.67           | 10.36  |
| Madness   | 0.48                                     | 3.45                   | 6.67           | 1.20   |
| 'Laborious', 'peace-loving'                         | 0.48                                     | 3.45                   | 13.33          | 1.59   |
| Old age   | 0.97                                     | 3.45                   | 20.00          | 2.39   |
| Adultery  | -  | 6.9                    | 13.33          | 1.59   |
| Pardoned by the victim party                        | 33.33                                    | 48.28                  | 26.55          | 34.66  |
| Total (%)   | 100.00                                   | 100.00                 | 100.00         | 100.00 |
| Number of petitions of pardon with this information | 207                                      | 29                     | 15             | 251    |
| %   | 82.47                                    | 11.55                  | 5.98           | 100.00 |

Source: AGS, *Gracia y Justicia*, legs. 874–75. Total petitions were 311. Just 251 with information about extenuating circumstances of crime. On this matter see Tomás A. Mantecón, 'Criminals and royal pardon', pp. 477–506.

consideration: sexual offences, for instance, provided the backdrop to numerous other crimes and emotional factors were an ingredient in many homicides.

Two significant and sufficiently complex examples will provide us with a global perspective in order to contribute to a more detailed understanding. The first case of 1720 considers Don Luis de Villegas, a resident in Carriedo Valley, Cantabria. On 7 January, the local court initiated a process against him. It was known that Teresa de Bustillo, a resident in the nearby village of Soto, was pregnant and close to giving birth. Under interrogation, she blamed Don Luis for the pregnancy: while she was serving in the defendant's mother's house, they 'were left alone one evening, and she was persuaded and cheated with a promise of marriage, so she let him enjoy her'. Investigations began as to how the young woman had become pregnant and about the promise of marriage. Three witnesses declared that, up to the time of her 'public slip', she had behaved honestly and modestly, and had remained a virgin. Confronted with this investigation, Don Luis admitted that he had, indeed, 'enjoyed her', and that they had begotten

a child, but he claimed that she had agreed to 'overcome the problem' in exchange for 150 ducats. As proof, he showed a document in which Teresa, who was under twenty-six years of age, voluntarily eschewed all her rights in the matter. Teresa, however, requested that this document be considered null, arguing that she had been forced by Don Luis to accept it. The cause was heard, and Don Luis was sentenced to pay the woman an annual pension of 200 ducats, an amount that was about half of a peasant's annual income.

On 22 June of the same year, another woman brought a similar criminal cause to the same tribunal, and against the same man. Antonia Díez, a young woman from the nearby valley of Toranzo, presented a claim against the very same man for 'words' and 'deeds', demanding the 'children that she had given Don Luis after he deflowered her be recognised'. In her opinion, she should be granted special treatment, for she had been offended even before Teresa. By the time this claim was processed, Don Luis was in prison and some of his possessions had been sold to cover Teresa's pension. Antonia's claims were confirmed by three witnesses. In November, the Chancellery of Valladolid stated that, unless he married Antonia Don Luis was sentenced to pay for the upkeep of, and recognise the children, and also to pay Teresa 200 ducats. This quantity could make up a good dowry for her future marriage. Should the sentence not be complied with within the following four months, Luis de Villegas would be exiled ten leagues from the Carriedo Valley and Valladolid, and would be forced to pay a fine of forty ducats to the Chamber.

In 1724, a petition requesting the execution of the sentence, filed by Teresa, reached the Chamber of Castile. A year later the case had not yet been resolved. On 23 January 1725, the Chamber issued a report for the Council of Castile, claiming that the young woman was 'being attacked violently by the relatives of the defendant (if they have not yet killed her) with the connivance of the mayors'.<sup>28</sup> This episode is indicative of the pressure, even the violence, which was sometimes exerted upon the perpetrators or, more often, the victims, by members of the other side's social group. This pressure aimed to force the other side to negotiate and bring the conflict to an end by way of agreement. Obviously, with such complex situations, the solutions reached could be nothing more than a 'patch up' which would close the issue, restore public peace and, if possible, reasonably compensate the injured side. In no case was the priority to determine with precision the criminal responsibility of the offender, but only to define and enforce the most adequate sentence accordingly. Royal grace was understood as an instrument which was used to modulate sentences, but this sort of appeal was often beyond the means of those involved in judicial processes.

A second case concerns the twenty-year old Francisca Concejo, known in 1769 as *La Castellana*, in prison in Madrid 'for admitting [to] having killed two loose

---

<sup>28</sup> AGS, GJ, leg. 875, without pagination.



women; one in Calle de los Tintes and the other one at the so-called Castellanos well'. Her case is a complex reflection of the specific casuistry, but we should not lose sight of the long-term life changes undergone by this woman.<sup>29</sup> *La Castellana* was from Reinosa, and was married to a man called Manuel Vicario, a shepherd in Torquemada, Palencia. The criminal case against her had been initiated by the *Corregidor* of Salamanca on 15 September 1768. After examining the events, the *Corregidor* locked Francisca in the Casa de Misericordia of Salamanca. She requested to be heard by the *Corregidor* and confessed to having killed these two women, adding that 'she could not quieten her conscience, because she felt their presence upon her'.<sup>30</sup> The events had taken place in Madrid on 21 April 1764. A woman called Manuela García, also known as *La Gallega* had met *La Castellana* fighting in the street with 'another loose woman' and had tried to break up the fight. Later, she met Francisca in Calle de los Tintes, where she 'invited her into the tavern, and when she said "no", [*La Castellana*] brought out a knife and stabbed her'. *La Castellana* was sentenced to six years imprisonment in 'La Galera'. However, the 'Madrid riots' of Holy Monday 1766 resulted in the liberation of the prisoners of La Galera and Las Recogidas de San Nicolás de Bari, including *La Castellana*.

This was not the first riot the young woman witnessed. In 1764, as a result of three consecutive bad harvests, a riot started in Salamanca, where *La Castellana* was at the time, and spread to other Castilian cities.<sup>31</sup> Around that time, a woman called Rosa Javiera Lebti was found dead near the so-called Castellanos well, also in Salamanca, but her death was initially declared an accident. In September 1768, when she was brought back from Salamanca to Madrid and her case was re-opened, *La Castellana* confessed, adding that, 'finding herself pregnant following her excesses, [she] tried to abort [the pregnancy] by taking a draught; having failed, she gave birth to a creature, near San Isidro, and threw the baby when it was still alive into the Manzanares river, near the Bridge of Toledo, and the current washed it away'.<sup>32</sup>

The apothecary whom she accused of selling her the abortive draught did not confirm her testimony, and her description of the clothes that Rosa Javiera Letbi was wearing when she died was also wrong. On the other hand, a dead newborn had indeed been found in the 'trough near the hospital, beneath the Bridge of

29 The biography of *La Castellana* is analysed here also taking into account the life-course perspective. On this focus see Tamara Hareven, 'The history of the family and the complexity of social change', *The American Historical Review*, 96-1 (1991), 95-124 (pp. 107-08).

30 AGS, GJ, leg. 875, without pagination.

31 J.A. Andrés-Gallego has studied the riots that led to the liberation of *La Castellana* in 1764. These can be considered the prelude to graver incidents in Madrid and other urban and rural areas of Castile in the following years. See José A. Andrés-Gallego, 'Economía, psicología y ética de un motín: Salamanca, 1764', *Hispania Sacra*, 39 (1987), 675-712. Further details in J.A. Andrés-Gallego, *Quince revoluciones y algunas cosas más* (Madrid: Mapfre, 1992), p. 19 and *El motín de Esquilache, América y Europa* (Madrid: CSIC/Mapfre, 2003), pp. 50-54.

32 AGS, GJ, leg. 875, without pagination.

Toledo', around the time that she had mentioned. The surgeon who examined the baby declared that it had been alive when thrown into the water. It was thus a difficult task for the judges to discern what was true and what was false in the statements issued by the witnesses and by *La Castellana* herself. At any rate, the violent death of *La Gallega* was considered proven in 1768.

Concerning the death of Rosa María Letbi and the act of infanticide allegedly committed by *La Castellana*, the only damning factor was her confession, a confession that did not inspire much confidence in the instructors of the case, because 'when the birth supposedly took place, she was in jail'. It is thus likely that this part of her account was only a figment of her imagination, or that she was reconstructing events which could not be independently verified, as they were out of context. The woman was finally pardoned, to prevent the risk of her being sentenced for a crime for which she had already been judged, and was simply to be 'locked in La Galera for the four remaining years of her sentence and four more [...] or in the Misericordia de Salamanca, according to her wishes'. Therefore, *La Castellana* was sent to finish her initial sentence plus some extra time.

The two examples presented here suggest that royal grace, when dealing with sex-related offences, was also a useful instrument for restoring public peace, even in such complex cases as that of *La Castellana*. A royal pardon was a way out of a marginal and degraded lifestyle for women, and it permitted them some degree of protection, compensation, and pension. Royal pardons also allowed for the re-evaluation of incriminating circumstances presented before the courts.

## Conclusions

The rituals of the justice system, the sentences, and the methods of enforcing them, as well as the agents who operated within them (both formally and informally), were an expression of the authority of the King. Within this system, royal pardons were a mechanism which was used to restore the covenant between the authority of the justice system and the social web (the subjects) from which the monarchy was made to preserve public peace. In each case, what seems like an institutional intervention was in reality an appeal for negotiation, the result of a conversation carried out in the judicial arena between the sides affected by conflict and the King's justice. These conversations materialised in court and before court officials, but also elsewhere, and involved other agents.

The people who made up society under the Spanish Monarchy, therefore, participated actively in the construction, restoration, and *conservation* of public peace. The role of judges, from the lowest court to the King, adapted to social perceptions, as their documents and decrees indicate. As pointed out by the mayor of Cayón in the winter of 1623, judges were arbiters, facilitators 'by peaceful means', and 'fulfillers of a Christian duty'; their actions would have been futile without the participation of those that constituted the social environment in which conflicts emerged. Conflicts could be solved judicially, extrajudicially or by way of grace. It

is perhaps for this reason that legal treatises emphasised the global perception that political structure was built upon judicial foundations.

Each step on the judicial ladder treated conflict, negotiation, and resolution in its rightful context. This crystallised in a very complex culture of conflict negotiation and the construction of public peace. This culture involved formal (notarial protocols, judicial processes, and legal and consuetudinary procedures) and informal institutions (mediation and arbitrations). This complex architecture also included the political interests and structures that framed conflict and crime. As such, the offence was not regarded as the decisive factor to be taken into account in the resolution of the conflict, but only as one of the many elements that affected the outcome. Other factors were the degree of social inclusion or exclusion of the protagonists, the circumstances surrounding the events, the damage caused, and the social environment of aggressors, victims, and bystanders.

Personal links often led to crime and also determined the defensive measures deployed to respond to it. Kinship, a common origin, or a shared position of social exclusion were all factors in both the perpetration of a crime and its resolution. Whenever a defensive reaction followed an initial crime, this reaction could change the relative position of the sides and their judicial strategies. The historical record is rich with expressions such as 'being attacked violently by the relatives of the defendant' or 'the connivance of the mayors [with the aggressors]'. Often these circumstances only ceased when the victim supported the pardon appeals. Frequently, this support was the result of an extrajudicial agreement between opposing sides and involved economic compensation for the victim. Other factors played a role in the concession, or rejection, of the royal pardon or the commutation of sentences. Seeking refuge on sacred ground or having greater (monetary) means, often worked in favour of the applicant, who would manage to bring the case to a close and avoid a lengthy sentence or prevent its enforcement.

In general, during the early modern era, Spain relied on a model based on mediation and arbitration for the construction of social peace. Public peace was expressed both in terms of everyday coexistence and in the very vitality of the global apparatus of the Monarchy. This peace compelled people and institutions to engage in complex 'conversations' about what was tolerable behaviour and what was not. The justice system, the epicentre of the monarchic system, was a social participation arena in which these orderly behaviours were defined. It could not have been otherwise. If the vitality of the Spanish Monarchy depended on the subjects piecing it together, the whole structure was defined by the interaction of its constituent parts. These parts may have been the protagonists of conflict, but they were also the principles and actions on which social peace was erected. The complex machinery of the Monarchy needed social participation yet remained fluid, both in terms of its transcendent nature and in the specific casuistry of each instance of conflict and its long-term historical evolution.

## Appendix. Indult for José Balboa (with a letter from the Marquis of Esquilache), 1771

| <p><b>EXPEDIENTE DE INDULTO A JOSÉ BALBOA (CON CARTA DEL MARQUÉS DE ESQUILACHE), 1771. PROVENANCE: AGS (GENERAL ARCHIVE OF SIMANCAS), GRACE AND JUSTICE, FILE 874, S.F.</b></p>  | <p><b>PETITION OF ROYAL PARDON BY THE SOLDIER JOSÉ BALBOA (WITH A LETTER FROM THE MARQUIS DE ESQUILACHE SUPPORTING THE PARDON REQUEST).</b></p>   |
|--|---|
| <p>Pedro de Iturralde, paje del marqués de Castelar y frecuentador de un domicilio en la Calle de la Espada con habitual concurrencia de hombres y mujeres para el intercambio de favores sexuales, como otros jóvenes, entre ellos algunos soldados y guardas de corps, con frecuencia se vio inmerso en broncas y altercados, que dejaban desazones y venganzas saldadas posteriormente. Iturralde fue hallado muerto el 30 de septiembre de 1756 fruto de 5 heridas en la espalda, todas mortales y alguna provocada cuando el herido estaba en el suelo y boca abajo. El cuerpo se halló en la calle de Embajadores. El inculpado y sentenciado, en situación de fugado y, por lo tanto, en rebeldía, fue un soldado forastero de familia murciana llamado José Balboa, que resultó condenado a pena ordinaria de muerte el 10 de julio de 1758. Posteriormente se asentó como soldado en Italia. A principios de marzo de 1771 solicitó un indulto. Se encontraba como soldado en Nápoles y adjuntó, infructuosamente, con su súplica una carta personal fechada el 7 de mayo de 1771 y remitida desde Nápoles por el Marqués de Esquilache a Manuel Roda</p> | <p>Pedro de Iturralde, a page of the Marquis de Castelar and a frequenter of a tavern of <i>Calle de la Espada</i> in Madrid with habitual attendance of men and women for the exchange of sexual favours, like other young people, including some soldiers and royal guards, often saw himself as immersed in tavern brawls, which left discomforts and revenge later settled. Iturralde died on September 30, 1756. This was the result of five wounds on his back, all fatal and some caused when the wounded man was on the ground and face down. The body was found in <i>Calle de Embajadores</i>. The accused was sentenced while he was away from justice and, therefore, <i>in rebellion</i>. He was a foreign soldier of the Murcian family named José Balboa. He was condemned to the ordinary death penalty on July 10, 1758. Then, he had already settled as a Spanish soldier in Italy. In early March 1771, however, from Italy, he requested a royal pardon. He was a soldier in Naples and attached, unsuccessfully, with his plea a personal letter dated May 7, 1771 sent from Naples by the Marquis de Esquilache to Manuel Roda requesting forgiveness for the soldier. This letter pointed out:</p> |

|   |   |
|---|---|
| <p>EXPEDIENTE DE INDULTO A JOSÉ BALBOA (CON CARTA DEL MARQUÉS DE ESQUILACHE), 1771. PROVENANCE: AGS (GENERAL ARCHIVE OF SIMANCAS), <i>GRACE AND JUSTICE</i>, FILE 874, S.F.</p>   | <p>PETITION OF ROYAL PARDON BY THE SOLDIER JOSÉ BALBOA (WITH A LETTER FROM THE MARQUIS DE ESQUILACHE SUPPORTING THE PARDON REQUEST).</p>  |
| <p>en que solicitaba el perdón para el soldado. Indicaba:</p>   |   |
| <p>“...el interesado merece mi particularísimo amor y merece el de otros muchos. Mis oficios le han proporcionado la fortuna de conducir su causa a los pies del Rey, que no dudo lo había agraciado si al mismo tiempo huviese sabido el fiel servidor que es este oficial de su amado hijo. Yo, que lo conozco devo hacerle justicia y solicitar por quento sus alivios.</p>  | <p>“...the interested party deserves my particular love and deserves that of many others. My offices have provided him with the fortune of leading his cause at the feet of the King, who I had no doubt graced him if at the same time, he had known the faithful servant who is this officer of his beloved son. I, who know him, recommend him to do justice and I do ask for his relief”.</p>   |
| <p>Con este ardiente empeño habría solicitado antes el favor de V.S. pero premedité que no llegava en tiempo mi carta, lo suplo presentemente sin desconfiar, antes bien espresando el garbo de V.S. que me a de dejar ayroso; pues el todo pende de su mando y mano, siendo propensísima la gracia del Rey, a quien espero lo haga V.S. presente con su familiar energía, poniéndome a sus reales pies y manifestándole cuánto me intereso para obtener su real conmiseración, por este infeliz, que tiene perdidos los intereses de su casa, y no encuentra otro medio de resarcirlos; además de merecer por su conducta y circunstancias la protección de todo hombre honesto.</p> | <p>With this ardent commitment, I would have requested the favour of His Majesty but I foresaw that my letter did not arrive in time, I suppose it presently without distrust, rather expressing the V.S. [His Majesty grace] to leave me pleased. All hangs on His Majesty's hands. I do hope His Majesty deals with this petition with his familiar energy, putting me at his royal feet. I am telling him how much I am interested in obtaining his real commiseration, for this unhappy man [Balboa], who has lost interests of his house and finds no other means of repaying them. Additionally, implementing royal grace would be like deserving that soldier for his conduct and circumstances the protection, in this case, to protect him as an honest man.</p> |
| <p>Hágame V.S. conocer en esta ocasión cuánto merece mi amistad a su cariño y crea que semejante beneficio lo reputaré como propio, respondiendo con igual fineza mi gratitud, que se servirá mandarme, y en tal seguridad me repito a V.S. el más apasionado, y no menos deseoso que Ntro. Sr. Prospere su vida</p>  | <p>Let me how much my friendship deserves His Majesty's love. I believe that such a benefit of pardon would be like gracing myself and I will answer to this with equal finesse and passionate gratitude. Our Sir would give His Majesty long prosperous life years. Messina, May 7, 1771”.</p>   |

|   |  |
|---|--|
| <p>EXPEDIENTE DE INDULTO A JOSÉ BALBOA (CON CARTA DEL MARQUÉS DE ESQUILACHE), 1771. PROVENANCE: AGS (GENERAL ARCHIVE OF SIMANCAS), GRACE AND JUSTICE, FILE 874, S.F.</p>  | <p>PETITION OF ROYAL PARDON BY THE SOLDIER JOSÉ BALBOA (WITH A LETTER FROM THE MARQUIS DE ESQUILACHE SUPPORTING THE PARDON REQUEST).</p>   |
| <p>dilatados años. Mezina, 7 de mayo de 1771.”</p>  |  |
| <p>Balboa añadió cartas de varios de sus familiares directos y adjuntó su historial militar y servicios a la Corona desde su alistamiento en Nápoles en 1756 cuando salió de Madrid y Castilla para evitar la pena capital. Indicaba “aver purgado la involuntaria circunstancia de ausente, con el glorioso servicio prestado y que actualmente presta”. No fue indultado en el Viernes Santo de 1771 a pesar de la batería de argumentos y cartas que componían su suplicatorio, según queda reflejado en este documento.</p> | <p>Balboa added letters to support his grace petition from several of his direct relatives and attached his military services report since his enlistment in Naples in 1756 when he left Madrid and Castile to avoid capital punishment. His petition reported “he had purged the involuntarily committed crime with the glorious service done and currently provided to the Crown”. Despite all these collections of reports, Balboa was not pardoned by the Holy Friday in 1771.</p> |