CHAPTER 14

Expenses Related to Corporal Punishment in France

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The repression of crime comes at a cost for at least three groups, first, those who administer and otherwise work for the justice system; second, those condemned by judicial process; and, third, those connected to the parties convicted. The costs vary in kind. They can be financial, physical, material or psychic. In this essay I want first to offer a taxonomy of costs, which, though not comprehensive, will signal the dimensions of the subject. In doing so, I am drawing on an immense body of sophisticated research, to which I shall often explicitly refer. Then I shall focus on one set of costs, rather less studied, for one group of people. Throughout, partly for brevity’s sake and partly for the interest of the case, I shall limit myself to France in the thirteenth and early fourteenth century. Let me emphasize before proceeding further, however, that I am addressing the repression of crime not crime itself, which inflicts other kinds of social, political, financial, physical, material and psychic costs on varied groups. Often, however, information on the historical repression of crime is intertwined in the scholarship with learned discussions of the history of crime itself. The many and influential works of Claude Gauvard would be representative of this practice.1

Taxonomy

Financial drawdowns from governments and other financial ramifications of the repression of crime affected a number of groups. What one may call the

police required payment for their work, but their negligence, as for example, in failing to prevent escapes had negative financial implications for them if they were obliged to pay punitive fines. It is usually said that official policing was very restricted in the Middle Ages in contrast to the situation in the modern period. Fair enough. Nonetheless, there were many sheriffs, constables, sergeants, and lower level agents, beadles one may call them, who led posses, responded to the hue and cry, and guarded prisoners, neighborhoods, government buildings and warehoused goods. On many occasions these duties fell on men who incurred them because they were in particular dependent relationships to the governing authority, in other words, they owed the service. Many other people also received remuneration, all or part of which was reckoned as a proportion of confiscated goods, or as the surplus on fines and confiscations, if they (the agents) were farmers (revenue farmers) who had bid for their offices. Still others received their income as government wages, in whole or in part. Whether duties of policing were a requirement of a dependent’s relationship to his lord or were remunerated in one or more of the ways mentioned, every agent was liable to financial loss when malfeasance of duty was proved against him.

Except in extraordinary circumstances proof of malfeasance had to be established through judicial process, that is to say, in courts, run by judges. Judges had to be paid by the appropriate jurisdictional authority. Again, some judges served because they were in a dependent relationship to a jurisdictional lord, but many others received salaries. In the turn from the thirteenth to the fourteenth century the proportion of the latter probably increased in royal jurisdictions, but pay was still deemed too low in many instances for the nature of the work. There were several consequences of this. In particular, judges received boons—sometimes as clothing or other material remuneration in addition to wages, sometimes as special privileges which gave them privileged access to other forms of income, and sometimes as bribes either directly from those wishing to escape condemnatory judgments or from their partisans. Of course, discovery and conviction for bribery also generated income for the jurisdictional authority. Those who executed judicial sentences, a large proportion of which were fines imposed on those condemned, also received government remuneration of one sort of another, not unlike the way policing agents did. Indeed, often the personnel undertaking these two different sets of tasks were the same. The thirteenth century saw extraordinary campaigns

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