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Social and cultural historians often use court records and, to a lesser degree, petitions and supplications, as potentially rich historical source material for uncovering a broad range of attitudes, notions and behaviour beyond judicial and petitionary practice itself. This research has still however mostly been carried out within the boundaries of a particular nation state, be it contemporary or pre-modern. A cross-national and comparative perspective would not only widen the view but also call attention to shared methodological problems, regardless of judicial and petitionary system. This was the main theme of the workshop Justice & Authority in East and West before 1800, funded by the Swedish research council Riksbankens Jubileumsfond and hosted by the UGPS (Umeå Group for Premodern Studies, Umeå University) at the Swedish Institute in Istanbul in October 3–4, 2011. The following articles are the first fruits of this workshop, even though they are confined to a more limited, strictly European perspective.

Comparative approaches are of course far from unproblematic. Traditional contrastive-oriented perspectives have been heavily criticized for reinforcing rather than crossing traditional national frameworks and making them appear more static by prioritizing differences instead of the possibility of mutual influence, cultural transfer and interaction. Our present ambition is however restricted to providing brief overviews of judicial and petitionary systems in early modern Europe as an initial step in developing more sophisticated comparisons and cross-cultural studies. Basic knowledge of the various institutional and judicial contexts in which court records and petitions were written and composed is a necessary prerequisite, irrespective of whether the practices or documents in question are used mainly as sources of information and conclusions about a broader range of subjects. In addition, we intend to present some important trends in and shorter examples of recent and ongoing historical research in the field.

The reader will thus encounter overviews of the judicial and petitionary systems of early modern Sweden – of which Finland was a part (Liliequist & Almbjär, Koskivirta); late medieval and early modern England (Sandall); of the early modern Holy Roman Empire, focussing the Archduchy of Austria when turning from legal theory to practice (Griesebner) and the Habsburg Empire (Steiner). There is also a presentation of the civil justice system in early modern France (Dermineur). The selection of judicial and petitionary systems reflects the more general ambition of the workshop to bring together research on historical societies that may not otherwise be likely candidates for comparison.

When juxtaposed, parallels and similarities between the systems as well as profound differences become immediately apparent. That which has often been seen as a historical peculiarity in Swedish history – the formal inclusion of God’s Law in secular legislation – seems not to have been much different from the judicial practice of early modern Austria (Hehenberger). The jurisdictional rivalries and variety of courts in the English and Austrian judicial systems contrast on the other hand with the uniformity and simple hierarchical structure of the Swedish/Finnish court system. What implications such differences had for the opportunity to make use of the judicial system and how this is reflected in witness testimony, narrative strategies and patterns of litigation with consequences for the range and nature of information that could be elicited from the material, is the challenging task for a more comprehensive comparative analysis. The interplay between the questions of the examiner of the court and the response of defendants and witnesses against the backdrop of judicial rules of evidence and cultural expectations is the main theme of several of the contributions. While Jari Eilola demonstrates how a ‘negotiated truth’ was produced in court hearings as the outcome of conflicting discursive strategies and interacting responses, AnnaSara Hammar analyses the often terse, formulaic defences of naval seamen charged with desertion as ‘rhetorical lies’. In turn, Bronach Kane uses the more established concepts of ‘cultural scripts’ and ‘grammar’ in her study of the emotional expressions prescribed by late medieval English ecclesiastical courts for discharging the burden of proof and the extent to which they could both be constitutive for the production of emotions and manipulated by defendants and witnesses in their favour. Kane also provides what seems to be a most useful methodology for categorizing...
the emotional expressions described in court records, to wit, as either reports, representations or manufactured emotions.

The question of an ‘unmanufactured’ emotional authenticity is however problematic, even more so in the case of petitions and supplications which followed more or less formal templates often written by professional scribes. This is highlighted in Stina Karlgren’s study of what she calls ‘informal petitions’ submitted to women of the Swedish aristocracy. Not composed as formal petitions, the often profoundly private and emotional tone was in fact carefully adopted in order to influence the recipient and cast a positive light on the informal applicant according to certain recognizable roles. This also gave the recipient the opportunity to fulfill cultural expectations of benevolence, which would in turn evoke feelings of gratitude in the applicant and perhaps forge a stronger emotional identification with the role as needy party. Ultimately, what is manufactured and what is genuine becomes blurred. Nevertheless, by listening closely to the undertones in supplications, as Steiner puts it, we can almost certainly distinguish the voice of the individual supplicant.

Finland was part of the Swedish realm up to 1809 and although Swedish was the official language, only public servants and a minority of the native population spoke it. Apart from language, Anu Koskivirta and Miia Kuha each emphasize other cultural differences. Kuha’s contribution is an example of the classic strategy of using court records to uncover popular notions and attitudes – in this instance through the analysis of a church service parody possibly harbouring unorthodox beliefs. Confessional differences between Lutheran Sweden and Catholic Austria seem on the other hand to have had surprisingly insignificant consequences for judicial practice. In the joint study by Evelyne Luef and Riika Miettinen, suicide and the disposal of the corpses in Sweden/Finland and Austria are compared. While pre-reformatory notions of the hallowed nature of cemeteries lingered on in Lutheran Sweden, attitudes toward the handling of the corpses seem to remain roughly the same, with small variations dictated by local tradition rather than by official doctrine. Nor do differences in the doctrine of salvation seem to have had profound consequences for the legitimization of capital punishment – at least not at a first glance. Priests were involved in much the same way and the phenomena of suicidal murder and false confession occurred in Catholic Austria as well. On the other hand, burning alive and other cruel forms of execution which had been put out of practice in Sweden, often with explicit reference to a concern for the salvation of the convict’s soul, were still used regularly in Austria. Suicide, suicidal murder and the entire question of confession and the entire question of confessionalization seem thus ripe for reconsideration in a comparative perspective, including possible transfer and mutual influence.

Marriage is another field with great potential for a comparative perspective. Paradoxically, it seems that it was much easier to get a separation from bed and board in Catholic Austria, at least after 1783, than in Lutheran Sweden. The opening example given by George Tschannett in his article on marital separation is in its formalities more reminiscent of an application for divorce in Sweden. The opportunity for wives to sue their husbands for violent behaviour seems on the other hand to have been greater in England than in Sweden. A comparative study of marriage and marital disputes in England, Sweden and Austria would be of great interest.

The dominance of court records over supplications as source material should be seen more as a reflection of the current state of research than an indication of the fruitfulness of the research itself. The appeal of supplications lies, as Stephan Steiner puts it, in the fact that they address individual problems in the most formal manner, which allows the historian to uncover both the individual voices of ordinary men and women, and the contemporary image of the formal exercise of state power. The same could be said about documents from civil cases – Elise Dermineur makes a strong plea for the benefits of studying civil proceedings in cases of debt, property and inheritance for analyses of gender and emotion.

Finally, a note on terminology: I use the term ‘Royal Superior Court’ instead of the more common ‘Court of Appeal’ when referring to the Swedish and Finnish courts. ‘Royal Superior Court’ is not only a more straightforward translation but also conveys the proper connotation of control and supervision that was its main function.

On behalf of the contributors I would also like to thank Bronach Kane and Simon Sandall for all their work in making the texts more readable in English.