

Communal peace-keeping – KTL, AS

AS: Maintaining peace was a critical issue for rulers, as they often couldn't rely on a sufficient number of officials to carry out police tasks in all the lands they ruled. It is true that rulers continued to enact laws to regulate the provision of local justice and also that the church took measures to limit violence, for instance through the movement known as the Peace of God. However, peace-keeping had to a considerable extent to rely on the active role of communities in maintaining security and order and also on the joint responsibility of individuals of the same community. Whether such involvement of communities was an imposition from above or an expression of the agency of the community and local elites is a debated matter. But what is certain is that communities had a voice in setting customs and that they fulfilled relevant peace-keeping duties.

KTL: For instance, in France the *Coutume de Normandie* describes the practice of *clameur de haro*, the haro claim. It was a public clamour and a verbal complaint made by the victim of an offence who thereby sought the protection of the king and it started formal legal proceedings. This practice involving community was a way to bring criminals before royal courts. There was also an English parallel, the hue and cry, which may have come in later than in France, which raises the possibility that William brought it from Normandy. Again, people who discovered or witnessed an offence had a duty to raise the hue and cry in order to inform officials and the community who then had the duty to chase the suspect. Failure to raise the hue and cry could result in the amercement of the injured, which occurs quite frequently in the record. In England, wider and routine police practices date back to Anglo-Saxon times. Because Anglo-Saxon structures of kinship were crumbling, other forms of solidarity had to be found. Thus, Anglo-Saxon communities maintained law and order through a system of suretyship. For instance, they were associated in tithings, which gradually developed into the wider system of Frankpledge. Frankpledge was a peace-keeping system based on joint suretyship, common in most English counties and widespread from Anglo-Saxon times to the fourteenth century. It was designed to prevent crime in the local community and under that system of policing, each man over 20 years old – except from the clergy, the household of the lord and richer freemen – was required to be part of a group of ten, called a tithing. Each member stands surety for any of the members of the tithing. They shared the joint responsibility to produce any man of the tithing suspected of crime to the royal official. If a member of the tithing failed to appear, they were fined collectively.

AS: This is very interesting, because in Italy we have a quite different institutional setting. In Italy, local justice, including peace-keeping and police tasks, fell under the responsibility of the *commune rurale*. This was an institutionalised form of local government, based on elective and rotating offices. This institution often developed under the close control of either the lords and local elites or of the city commune, the Italian city state. The duties of the *commune rurale* in the provision of justice were limited to low justice; they could not judge high justice. This is attested in several statutes enacted by the city communes. However, the same statutes compelled communities to inform municipal officials of any crime committed in the village. If villagers failed to report such crimes to central authorities, the municipal authorities, the entire community was held responsible and had to pay a fine, any fine or compensation arising from that crime. In terms of peace-keeping, the *commune rurale* and its officials had many functions. Firstly, to ensure the payment of any debt incurred by the community for any unreported crimes. Secondly, they also had to ensure that crimes were regularly reported to the municipal officials to prevent crime. So the joint responsibility of the community was institutionalised in quite a different way from what we have seen in the case of English

Frankpledge and jurors. That brings us back to how English communities were related to central government.

KTL: Even if, increasingly, there were officials performing peace-keeping duties, sheriffs and constables for example, they still needed the communities to get involved. This is shown by the *posse comitatus*, which was the legal power of an official to summon armed citizens to keeping the peace. This practice could be traced back at least as far as the reign of Alfred the Great. English medieval communities got involved in local government through other ways, such as office-holding and law enforcement, that also performed important judicial duties through the function of jurors, either jurors of presentment or trial jurors. This task fell into the hands of communities, usually at the request of superior authorities. The benefit was bilateral. Central government could exercise its authority in local communities despite its lack of officials and to a certain extent, communities had a way to act on their own governance. Community involvement in law and order rested upon different factors: communal sense of responsibility, which is linked to honour; the ability of the group to put pressure on the individual; monetary rewards; and threats of amercement.

AS: To conclude, communal peace-keeping was crucial in western European legal systems. It can be seen as one of their common features. However, its forms seem to have varied from region to region, according to different elements, such as governmental and institutional settings, the agency of communities as well as centralisation.