



**HAL**  
open science

# Sources and hypothesis for a social and cultural history of the people sentenced to death in the XXth century

Nicolas Picard

► **To cite this version:**

Nicolas Picard. Sources and hypothesis for a social and cultural history of the people sentenced to death in the XXth century. Doctoral Workshop of the French-German Doctoral College, Johann Wolfgang Goëthe - Universität; Université Paris 1 Panthéon Sorbonne, Jan 2011, Frankfurt am Main, Germany. hal-04154801

**HAL Id: hal-04154801**

**<https://hal.science/hal-04154801>**

Submitted on 7 Jul 2023

**HAL** is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

Quoting this presentation :

Nicolas Picard, “Sources and hypothesis for a social and cultural history of the people sentenced to death in the XX<sup>th</sup> century”, Doctoral Workshop of the French-German Doctoral College, Johann Wolfgang Goethe - Universität Frankfurt am Main, January 20-21, 2011.

Pour citer cette présentation :

Nicolas Picard, « Sources and hypothesis for a social and cultural history of the people sentenced to death in the XX<sup>th</sup> century », atelier du Collège doctoral franco-allemand, Johann Wolfgang Goethe - Universität Frankfurt am Main, 20-21 janvier 2011.

Doctoral Workshop of the French-German Doctoral College, Johann Wolfgang Goethe - Universität Frankfurt am Main, January 20-21, 2011

### **Sources and hypothesis for a social and cultural history of the people sentenced to death in the XX<sup>th</sup> century**

In the first place, I'd like to thank the people who have organized this workshop. By allowing us to present our project of research, they have encouraged me to review a little more of one year of work. My PhD thesis is the continuation of a master's thesis on the same topic, entitled “Death penalty in France (1906-2007): debates, practices and representations.”<sup>1</sup> In this work, I expounded my initial plans, those plans aimed at achieving a “total history” of the death penalty in France in the 20<sup>th</sup> century, at the bridge of a social, cultural, political and law history. I wanted to consider the different uses of this specific technology of power. I specified several research axis, I reviewed the historiography on this topic, and I tried to open a very large field of research, even if I knew that I had probably to restrict this one in the future. This project considered the discourses and activities of the moral entrepreneurs (*Moralunternehmer*) – by *Moralunternehmer* I mean politicians, activists, associations, intellectual circles, journalists, both in favor or against the abolition of death penalty – as well as the legislative work, the judiciary and penitentiary enforcement of this punishment, the social representations of the guillotine and of the convicts sentenced to death. As I went through the archives during the last year, and moving forward my research, I thought about a new delimitation of my subject in order to produce a more accurate analysis.

---

<sup>1</sup> Nicolas PICARD, *La peine de mort en France (1906-2007). Pratiques, débats, représentations*, Master 2 sous la direction d'Olivier Wieviorka., Université Paris I Panthéon-Sorbonne, 2009.

One of the main idea of my master's thesis was to discuss the teleological approach of the abolition, I mean the idea that there is an inexorable progress toward a more civilized society, with no death penalty. This point of view is a part of the abolitionist argument considering that the capital punishment is just a residual penalty meant to disappear. Yet it doesn't imply that you don't have to fight, and the abolitionist crusade of the 1970s is becoming in France a sort of “lieu de mémoire”<sup>2</sup> (*Erinnerungsorte*), a great republican epic, with its heroes (like Robert Badinter), its temporary setbacks (the Buffet-Bontems case), its victories (the Patrick Henry case), and its final triumph (Badinter becoming the minister of Justice of Mitterrand and abolishing the guillotine). This crusade is the dramatic story we can now see on TV, either in the historical documentaries or in a recent fictional movie.<sup>3</sup>

At the contrary, my purpose is to replace the death penalty in the context of the structures of power and social regulation specific to the French society of the 20<sup>th</sup> century. For these reasons I intend to put the emphasis on a social and cultural history instead of the study of the political and media aspects linked to the abolitionist debate. Moreover, some academic works, mostly in political sciences and in law, have already took these aspects into account<sup>4</sup>. Therefore, I'd like to leave the intellectual debate between different moral entrepreneurs aside, in order to focus on the question to know how the death sentence was enforced – I could say in the daily life, even if, fortunately, you couldn't see a head being cut each day - an to know which people were concerned – who were the convicts sentenced to death.

It's why I chose to begin the study of the population of these convicts. Firstly because I want to study this group for itself, in order to reconstitute the actual experience of these men (and these few women), and their ability to deal with the deadly spiral they were caught up in. So I try to use a sort of ethno-historical approach. In a second place, I intend to look at their trajectories by realizing a prosopography. It will be a mean to investigate the mechanisms and criteria used to enforce the capital punishment in the judicial, administrative and political system, as well as a way to understand the interactions between the different actors. At last, I consider the different representations of the convicts sentenced to death, from the scholarly discourses upon crime and penalty to the presentation

---

<sup>2</sup> Pierre NORA (dir.), *Les Lieux de mémoire*, Paris, Gallimard, coll. « Bibliothèque illustrée des histoires », 1984.

<sup>3</sup> Jean-Daniel VERHAEGHE, *L'Abolition*, avec Charles Berling et Gérard Depardieu ; scénario : Alain Godard – France 2/Septembre Productions/BE Films, 2008, téléfilm en 2 parties, 1h30+ 1h30.

<sup>4</sup> Michel COUDERC, *Histoire de la peine de mort devant le Parlement français depuis le début du siècle (Regards sur les méthodes de travail des assemblées)*, Thèse de doctorat de droit., Université Paris 2, 1979. ; Julie LE QUANG SANG, *La loi et le bourreau. La peine de mort en débats, 1870-1985*, Paris, L'Harmattan, coll. « Logiques sociales », 2001, 266 p. ; Cécile TOQUE PICHON, *L'abolition de la peine de mort en France, la « loi Badinter »*, Paris, Éd. du Panthéon, 2006.

of these people in the press, and sometimes their inclusion as emblematic characters of the popular culture.

Now, what are the geographical and chronological boundaries of my topic of research. I'm focusing on the metropolitan France. I don't want to include the colonial France, because it would be a too large area of investigation, and I don't want to deal with some problems like the legal inequality, the domination of Natives, the control of territories. However, of course, France is not an isolated country and I have to take into account the changes and debates in the other countries, especially in Europe, as well as the resolutions of the international organizations. But as I want to avoid to focus on the abolitionist debate, I don't want to consider a comparative approach.

My study goes from 1906 to 1981, i.e. from the first parliamentary debate on abolition to the second one and the end of the guillotine. Why these political boundaries to a social and cultural subject? Because there was a renewal of the death penalty after the de facto abolition at the beginning of the century and the failure of the abolitionist draft bill. A law-and-order discourse and the different wars from WWI to the Algerian war sustained this renewal. I've wondered if I should except the wars or not in my study. Even if the judicial system is then disturbed, it's quite interesting to look at the meaning that the capital punishment could retain when a large part of the citizens were facing death on a daily basis. I intend to exclude the convicts sentenced to death by the military and political courts and to focus on the convicts condemned by a criminal court. However some comparisons between the different kinds of convicts could allow me to consider the political priorities of the moment, for example by looking at the pardon rate.

Now, what are the bodies of material that I should take into account? In order to answer this question, I'm coming back to my three main axis of research.

Firstly, the different discourses about the convicts sentenced to death. The first collection concerns the academic criminological, juridical and medical production, i.e. books and reviews written by criminologists, psychiatrists and juridical experts. I use this production to determine the underlying intellectual frame that acted upon the different actors in charge of implementing the death penalty, or in charge of helping the judicial system. I also use it to understand the context of production and the meaning of some notions such as “psychopat”, “degenerate”, “incorrigible”.

The second body of material concerns the discourses of the media, and leads to a study of press and TV. The purpose is to look at the different manners to report criminal cases, and how the

journalists put the emphasis on the horror of the crime, or on the suffering of the victims' families, on the psychological analysis of the criminal, on his family past... We can also think about their fame and wonder why a criminal remained unknown when another became an infamous celebrity. The press was a battlefield between moral entrepreneurs, lawyers, victims, criminals... The tone of these articles hesitated between horror and fascination, and could indicate the context surrounding some decisions. It's also a way to measure the changes in the French sensitiveness towards the different kinds of crimes, and the different kinds of victims or criminals. The press can also show us the public reactions to some trials, for example the “judiciary mob” which could disturb the trials.

A third corpus brings together what we can name the “popular culture” (even if this term implies some difficulties). The convicts sentenced to death were included in a lot of stories written for a popular audience and they were sometimes described in an heroic way. We have books, comics, drawings, lyrics, postcards, some specific museums. These objects allow me to consider how the fascination for the criminals worked, and how someone condemned to the “infamous apotheosis” could become an ambiguous figurehead of the underworld (*Unterwelt*).

The second main axis of my work is about the trajectories of these people. I've begun to establish a database in order to carry out a prosopography, a collective biography. I use mostly the pardon files that you can find in the archives of the presidency or of the ministry of Justice<sup>5</sup>. My purpose is not only to compile a register of all the convicts sentenced to death or to look at some social characteristics, like the repartition by age, gender, level of income, family situation. I'd like to put an emphasis on the different trajectories in this specific group with the same pattern that Nicolas Mariot and Claire Zalc have developed in a completely different historical field<sup>6</sup>. They have studied the Jewish population of Lens (Northern France) from the 1930s to the after-WWII. They consider in their book some issues as, for example, who are the Jews who decided to leave the town, who decided to hide themselves or to declare themselves as Jew at the prefecture, for what reasons, and what were the consequences of these different choices. This kind of reasoning has a great advantage: it allows us on the one hand, to keep the diversity of the different individual destinies, and on the other hand, to suggest some typologies and to analyse the causal relations and the correlations. So I have to model a judicial process through different tables going from the criminal actions and the victims to the presidential decision of pardon with the two major stages which are the trial and the examination of the pardon by a Commission in the Ministry of Justice.

One question was to determine if it was useful to reconstitute a complete biographical trajectory

---

<sup>5</sup> Archives nationales (CARAN, Paris), séries BB24 et 4AG/597-603 et 667-682 ; Archives nationales (CAC, Fontainebleau), série 19970344 /1-50.

<sup>6</sup> Nicolas MARIOT et Claire ZALC, *Face à la persécution. 991 Juifs dans la guerre*, Paris, O. Jacob, 2010.

for these criminals. The risk is to essentialize these people as “objective” criminals, “*criminels en soʻʻ*”, and to consider that there are psychological and social factors determining crime. But it's not what I'm looking for, because I think that the interactionist, nominalist viewpoint developed by Howard Becker is more appropriate<sup>7</sup>. The biographical trajectories could however be useful if I want to emphasize the assets and the handicaps of a criminal when he was engaged in a judicial trajectory.

These judicial trajectories are at the heart of my work. The pardon files have the advantage to sum up the whole judiciary and penitentiary career of these convicts until the final decision of pardon or execution. The work on the database, when this one will be completed, should offer an analysis about the running of the judicial and pardon systems through the century, and of the changes in the legal ripost to the problem of criminality. I'd like to answer some questions such as : what kind of crimes led to a stronger probability to be sentenced to death? What were the personal characteristics of the defendant (gender, age, family situation..) which could explain a more or less pity? Was the choice of the lawyer important? What were the regional differences in the enforcement of death penalty? Did the jury often follow the summing up of the prosecution? What were the specific factors which could explain a pardon?

On top of this work, I'll try to have a more accurate insight on some trials by studying the different kind of arguments used by the prosecutor or the lawyers. I'll maybe try a lexicometric analysis if I find enough texts of speeches. I also probably should look at the trials in which the death sentence could have been pronounced, but wasn't, in order to put things in perspective. So I have to broaden my research field beyond the population of convicts sentenced to death, but I won't aim at an exhaustiveness. I'll probably use a method of sampling (*échantillonnage*).

My last part is about my ethno-historical approach, i.e an approach of the actual experience of these convicts. My first body of material is made of the statutory texts that you can find in the penitentiary reviews. The second one brings together the accounts of some former convicts, lawyers, penitentiary workers, or headsmen (*bourreaux ; der Scharfrichter*). These texts were published in the press, or as books, but I've also found some letters of the convicts in the pardon files. A third corpus is made of the press reports in the death row. But these reports are not completely reliable, because the journalists were often lazy and copy each other, and you can find the same stories and anecdotes at different moments/periods, with just a change in the names of the convicts. Reports in the death row became more common (but not more reliable) with the rise of magazines such as *Détective*<sup>8</sup> or *Police Magazine*. At these different reports I have to add some fictional works with a documentary perspective,

---

<sup>7</sup> Howard Saul BECKER, *Outsiders. Studies in the sociology of deviance*, New York, Free Press, 1963, 179 p.

<sup>8</sup> Catherine MAISONNEUVE, «*Détective*»: *le grand hebdomadaire des faits divers de 1928 à 1940*, Mémoire de l'Institut français de presse, Paris, 1974.

for example the movie “*Nous sommes tous des assassins*” (“Wir sind alle Mörder”). The last body of material is the penitentiary archives on the death row but I haven't yet found any interesting document in these files<sup>9</sup>.

There is two main aspects to consider in this axis : on the one hand the statutory and materiel arrangements and their implementation by the penitentiary administration, on the other hand how the convicts adapted themselves to some very harsh measures, and tried to continue to live. The penitentiary administration had to reconcile several antagonistic goals: preventing an escape, preventing suicide (the convict had to die, but only from the hand of the executioner), but also trying to humanize the detention, in order to allow some hope and maybe a redemption for the prisoner. The exceptional and almost sacral nature of this penalty was another source of tension. Even if the statutory frame was quite severe/harsh, there were however some latitude in the different manners of implementing the rules.

Facing this situation, and even if they had very few room for action, the convicts sentenced shouldn't be considered only as passive subjects. Their attitudes went from the refusal (for example, they tried to escape), to acceptance (some of them made arrangements to bequeath their body to science – they had sometimes no choice in reality...). They knew the torments of the anguish of death and the daily hope of pardon. Their occupations showed indeed their hope and their will to survive : some of them learned to read, or began the study of a foreign language... Their possibilities of action were often limited to the prayer, the correspondence, but a few ones tried to address the media from their jail.

In conclusion : I intend in my PhD thesis to reconcile a qualitative and a quantitative approach for a study of these convicts sentenced to death. I hope to fulfill several goals:

- firstly I intend to give back a voice to a group of people who are a part of the “silenced voices”, and who had literally lose face. I hope however to avoid the pitfall of a sentimental history which would consider these convicts only as the victims of the legal system.

- I hope I could contribute to a social and cultural history of the judiciary institution, in its relations with the victims, criminals, and the public opinion, as well as with the political power and the media.

- I hope I could contribute to an history of the attitudes of the French people towards the problems of criminality, punishment, justice. The current news show us that these questions are still very important in the public debate, in France as in other countries.

---

<sup>9</sup> Série Y des archives départementales.