Jansen on Kumhera, 'The Benefits of Peace: Private Peacemaking in Late Medieval Italy'

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Glenn Kumhera and I have much in common. We both have worked on the subject of peacemaking in late medieval Italy longer than either one of us would probably care to contemplate. Furthermore, both of our books, published within a year of each other, have at their research cores the analysis of hundreds of instrumenta pacis, legal agreements drawn from notarial archives in central Italy. And finally, both of our monographs constitute part of a new wave of scholarship that foregrounds peacemaking practices—the other side of the coin to feud, violence, and vendetta—to offer a more richly textured view of medieval Italian communes.

However, though our analyses converge at times, our studies are nonetheless modulated in two very different keys. Generally speaking, I think it is fair to say that while my study of late medieval Florence is concerned with the legal aspects of making peace, it is even more concerned with embedding those legal mechanisms into a wider religious culture of the period, while also incorporating visual evidence and ritual practice into the discussion. Kumhera, on the other hand, while not unsympathetic to the penitential aspect of peacemaking, frames his study of the benefits of peace primarily through an examination of the legal culture in which it was embedded. This is an observation rather than a judgment and one that points toward important methodological differences employed in the two works. Therefore, rather than competing with each other, my sense is that the two works on neighboring Italian cities serve to complement each other from the standpoint of their research agendas, approaches, and conclusions.

Kumhera’s work is grounded primarily in Siena, but he makes some interesting digressions, in particular to fourteenth-century Rome. From Siena he has excavated some 430 peace agreements from notarial protocols dating from 1308 to 1480, while from the Roman registers he pulls another 55 cases. In addition to these sources, he also looks at a wide array of supporting legal material drawn from courts and governing municipal bodies, as well as the opinions of the leading jurists of the day. And that is one of the virtues of this meticulous study. From it we learn not only about the types of cases that called for peace agreements but also in detail all about the implications of those cases in both legal theory and practice.

The book is divided into eight chapters. The first four cover in granular particularity the crimes and misdemeanors that could be remitted with a notarial peace agreement. As in Florence, peace
agreements were flexible and could therefore be used to resolve episodes ranging from violent street altercations, to theft, to domestic violence and rape. Notably they could also be used to bring an end to homicide cases, often an outcome of vendetta. And significantly they could be used to allow those who had been banished judicially from their native cities to return home as citizens restored to full rights and protections, which the state of banishment had effectively stripped away.

Among the many nuggets unearthed by Kumhera’s careful study is that the fourteenth century was the golden age of peace agreements in Siena: almost 4 percent of all documents produced by Sienese notaries in that period took the form of *instrumenta pacis*. We also learn that in the territory of Siena, including the city, district, and contado, peace agreements were redacted on a daily basis. And despite regime change in the government of Siena in the mid-fourteenth century, and notwithstanding the growth of the inquisitorial procedure in this period, resolution of accusatorial cases by means of peace agreements persisted well into the fifteenth century. Or as Kumhera argues: “the use of peace agreements in the courts served as a proxy for direct communal action and met many of the commune’s goals” (p. 92). This becomes especially apparent in his chapter on the criminal ban that shows how the podestà’s judges, legislating councils, and petitions from the accused—sometimes working in concert with each other—used peace agreements for the benefit of both the city and the particular parties involved. Peacemaking was rarely a zero-sum game.

The second part of the book, the final four chapters, attempts to look up from the detail of the cases to examine the roles of various actors in peacemaking, be they women, minors, clerics, or legal representatives. From these chapters we learn, among other things, that a peace made through third parties, such as procurators, was considered less likely to succeed than those made in person; that peace could be made through *amici*, an informal arrangement with no binding powers, which increased in frequency in Siena after statute reforms in 1355; and that a search for peace agreements made in the wake of Bernardino da Siena’s pacification campaign in the city turned up not a single written peace agreement, a lacuna that Kumhera explains by noting that oral agreements may have been used in these extraordinary circumstances. We also learn that there was a precipitous drop by almost 50 percent from the later fourteenth to fifteenth centuries in women’s role in peacemaking in Siena. Kumhera attributes this change over time to two factors: the spike in the fourteenth century of widows making peace in the wake of the Black Death to a shift in public policy in 1355 to include larger kinship networks in peacemaking, which had the consequence of sidelining women’s participation in this civic act.

This is also the section of the study that in chapter 6 moves to fourteenth-century Rome to examine some very particular cases of peacemaking that were made following the establishment of the House of Peace and Justice by Cola di Rienzo. Roman peacemaking was exceptional in many ways but most conspicuously because a local grandee often arbitrated cases of violent disputes that concluded with peace agreements. In these cases, the arbitrator both scripted and choreographed the peace for the parties to enact in their neighborhoods. And frequently these performances were more than mere dispute resolutions: they were full out penitential reconciliations, saturated in the performative religious culture of their time.

*The Benefits of Peace: Private Peacemaking in Late Medieval Italy* is an admirably researched monograph and a welcome addition to the literature. My only misgiving is that Kumhera has chosen to use the term “private peacemaking” in his title, a phrase that he rightly acknowledges in chapter
4 “can lead to misconceptions” (p. 122). For a number of years now, scholarship has been backing away from this formulation—even if it does follow the terminology of medieval jurists—because it tends to muddy the waters that a generation of scholars has endeavored to make more transparent. Kumhera himself is a contributor to this project. In his conclusion he notes: “the pax privata was a private peace in name only” (p. 255). The book demonstrates that “private peacemaking” was anything but private. It was very much a part of the public judicial system. The agreements were drawn up by public notaries, bound by statute law, and enforced by the weight of the public justice system. Thus to use the phrase “private peacemaking” in the book’s title only to step away from it in the text is a rather perplexing decision. This qualm aside, Kumhera’s new monograph adds significantly to an ever-growing corpus of Italian and Anglo-American scholarship actively engaged in finding the “peace in the feud.”


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