

**TRIBUNE: THE HISTORY OF THE NOTARIAL PROFESSION: AN ONGOING RESEARCH AVENUE****Daniel Piñol**

Universitat de Barcelona

e-mail: [danielpinol@ub.edu](mailto:danielpinol@ub.edu)doi: 10.1344/Svmma2018.12.10

---

This monographic issue of SVMMA focuses on a research line that is still making important contributions to the field of Diplomats. Indeed, the history of the notarial profession is currently one of the research avenues pursued by many international experts in Diplomats. This statement is based on the renewal the field has undergone since Robert-H. Bautier made some innovative proposals in his well-known opening lesson of the course in Diplomats at the *École des Chartes*. The main one of these was that it was necessary to broaden the objectives of Diplomats to encompass the entirety of written documentation in any era. He argued that any document can be the object of analysis (BAUTIER 1961). These postulates were followed, among others —albeit with some debate— by A. Pratesi who called for a complete analysis of documents, including historical and legal exegesis of their forms. Likewise, Pratesi also advocated an analysis of the documentation of all periods, and not only of probative documents but also of administrative acts (PRATESI 1973).

This is not the time to draw up a state of the art on the concept and objectives of Diplomats, however, we can take these suggestions into consideration to understand that the study of the history of the notarial profession is fully in line with this renewed Diplomats and its new goals. In addition to purely chronological studies of modern and contemporary documents —such as those undertaken by Luciana Duranti (DURANTI 1997) and Manuel Romero Tallafigo (ROMERO TALLAFIGO 1992), among others— these new goals also focus on the institutions that produced documents.

One of the most rewarding institutions in this respect, both in terms of the study of the institution itself and of its documentation, is the notary's office, whose documents also provide information about notarial activity (LAFFONT 1991). In other words, scholars of Diplomats understood that notarial protocols did not only offer information on aspects of social life, economy, and mentalities —for example, Michel Vovelle, in the 1970s made methodological contributions to the study of wills (VOVELLE 1973)— but could also be used to learn about how notaries carried out their activity, the evolution of contracts and formulas, the type of clientele, and their turnover.

Let us take Giorgio Costamagna's book on the notarial profession in Genoa as an example (COSTAMAGNA 1970). This was a key book in which he analysed the role played by notaries in late medieval Genoese society, which was characterised by remarkable economic growth. In this environment, notaries provided a practical application of law to give legal guarantees to commercial contracts. In a way, this book set the guidelines on how to approach the study of the notarial profession, on the one hand focusing on the institution, and on the other on the documentation generated by it. Many works have been devoted to the evolution of the notarial institution —the progressive passage from the simple *scriptor* to the *notarius publicus*— especially an article by Giorgio Cencetti in 1966 (CENCETTI 1966). Italian notaries have been the object of this analysis, in particular from the perspective of territorial case studies, with no comprehensive overview yet available. So far, research has been conducted on Umbria, Sardinia, Liguria, Naples, Pesaro, Urbino, Palermo, Bari, Padua, Pavia, and Rome, among others. These works are devoted to local colleges of notaries and their organization, local regulations, the evolution towards the definitive implementation of the notary public's office, the legal bases of the principle of public authority and public act forms, including studies on the revival of Roman law and the development of common law, which are directly related to the notarial profession and its evolution.

In addition, we must consider the critical edition of sources, another research line promoted by Armando Petrucci (*PETRUCCI* 1958). The emphasis on this line is fully justified, as Italian archives hold the largest number of notarial books, with extensive series starting from the last third of the eleventh century. These editions are in the hands of institutions such as the Consiglio Nazionale del Notariato and include outstanding introductory studies that constitute true research works on the Italian notarial profession.

These two lines of work can also be found in the Spanish scholarship on the notarial profession. Josep Trenchs drew up an interesting state of the art on the subject in 1974, in which he noted that bibliographical production on notaries in Catalonia was especially significant. He added that it was necessary to continue along the path opened up by some classic works such as those by Francesc Carreras Candi (CARRERAS CANDI 1906) and Victorino Santamaría (SANTAMARÍA 1917), and also that studying the legislation —legal regulations of notaries— was essential to carry out monographic studies on notaries' offices, and to study documentary typologies in depth.

Studies on Catalan notaries started at the beginning of the twentieth century with the two aforementioned authors and continued with the works of Honori García on Vic, Raimon Noguera on Barcelona, and Francesc Duran Cañameras on the notarial profession in Catalonia in general. These authors provided data on regulations, organization of notaries, local case studies, and the public authority that appointed notaries in the Middle Ages. As for historiographical production, we should also mention the journal *Estudis Històrics i Documents dels Arxius de Protocols*,

which was founded in 1948 and has published over thirty issues with articles by M. Teresa Ferrer Mallol, Antoni M. Argó, Josep Trenchs, Rafael Conde, and José Bono, among many others. Together with this journal, the other main channel for the dissemination of studies on Catalan notaries is the Noguera Foundation, an institution that publishes works on notaries, research based on notarial documentation, and also remarkable critical editions of notarial protocols and catalogues of notarial archives. The notarial profession in Aragon has been studied by Angel Canellas and Asunción Blasco, in Valencia, by Josepa Cortés and, especially, by Vicent Pons, and in Mallorca, by Antoni Planas Roselló who, despite being a jurist, has made important contributions to the development of the notarial profession on the island.

Notaries in Castile have been studied by Pilar Ostos, M. Luisa Pardo, M. Josefa Sanz, and, more recently, Reyes Rojas and María Luisa Domínguez with their doctoral theses on notaries in Seville. Along these markedly local studies, we must mention the great work of José Bono Huerta who produced an extraordinarily detailed overview of the Spanish notarial profession.

The foregoing paragraphs cannot be considered a state of the matter nor were they conceived as such. However, they are indeed useful to appreciate the historiography on the notarial profession and also to justify a monographic issue on this subject in a journal of medieval cultures. The articles that make up this issue provide new data on medieval notaries and follow some of the latest trends. As examples of these trends, it is worth mentioning the important work of M. Luisa Lombardo on Roman notaries (LOMBARDO 2012), and the volume edited by A. Arnoux and O. Guyotjeannin on the notarial profession in France (ARNAUX, GUYOTJEANNIN 2011). In some way, we can say that far from being an obsolete topic, the history of the notarial profession continues to provide data on local realities, some of which are micro-historical in nature.

The articles presented here deal with the notarial institution in specific cities, with specific notaries, with the organization of notaries, and with the role of notaries as intermediaries in diverse social circumstances. Thus, the article by Mireia Comas focuses on the role played by women in contracts authenticated by notaries in Barcelona looking at a very specific type of documentation: notarial requirements. The analysis of this documentation provides data on the difficulties that widows faced in fighting for their rights and recovering their property after the death of their husbands. These women would have remained anonymous without the intervention of notaries in the contracts that provided legal guarantees for these processes. Adrián Ares's article focuses on the notaries of an important city like fifteenth-century Santiago de Compostela. Ares detects several types of notaries in Santiago who worked in different institutions and under different authorities. The method of analysis he applies includes the study of graphic models that he tries to relate to the type of appointment —royal or apostolic— of each notary. Finally, the article by Lorena Barco and Alicia Marchant looks into the figure of the notary García de

Villoslada, who acted as a scribe for Málaga's Muslim population at the end of the Middle Ages. Over and above the purely notarial function, his role also involved acting as an intermediary and interpreter for the Castilian population settled in the region.

Therefore, the three articles featured in this issue illustrate the main research avenues described above, as they provide information on three different scenarios connected to the notarial profession. Therefore, as studies in Diplomatics with methodological elements borrowed from Paleography and History, these three articles can be added to the list of research lines pursued by scholars devoted to the history of the notarial profession. We would like to thank the authors for their work and the editorial board of SVMMA for the opportunity to publish this monographic issue.

#### BIBLIOGRAPHY

ARNAOUX, Mathieu, GUYOTJEANNIN, Olivier (eds.), 2011. *Tabelliones et tabellionages de la France médiévale et moderne*, Paris, École des Chartes.

BAUTIER, Robert-H., 1961. "Leçon d'ouverture du cours de diplomatique à l'École des Chartes (20 octobre 1961)", *Bibliothèque de l'École des Chartes*, 119: 194-225.

CARRERAS CANDI, Francesc, 1906. "Desenrotllament de la institució notarial a Catalunya en lo segle XIII", *Miscel·lània Històrica Catalana* 2: 323-360.

CENCETTI, Giorgio, 1966, "Dal Tabellione Romano al Notaio Medieval", *Il notariato veronese attraverso i secoli. Catalogo della mostra in Castelvechio*, Verona, Colegio notarile di Verona: XIX-XXIX.

COSTAMAGNA, Giorgio, 1970. *Il notaio a Genova, tra prestigio e potere*, 1970.

DURANTI, Luciana, 1997, *Diplomática. Usos nuevos para una antigua ciencia*, Carmona, S&C.

LAFFONT, Jean-L., 1991. "Introduction. Problèmes et enjeux de l'analyse historique de l'activité notariale", *Problèmes et méthodes de l'activité notariale (XVe-XIXe siècles)* Toulouse, UM, 17-28.

LOMBARDO, M. Luisa, 2012. *Il notaio romano tra sovranità pontificia e autonomia comunale (secoli XIV-XVI)*, Milano, Giuffrè Editore.

PETRUCCI, Armando, 1958. *Notarii. Documenti per la storia del notariato italiano*. Milano, Casa Editrice Giuffrè.

PRATESI, Alessandrom 1973. "Diplomatica in crisi?", *Miscellanea in memoria di Giorgio Cencetti*, 1973: 443-455.

ROMERO TALLAFIGO, Manuel, 1992. "Diplomática del documento contemporáneo: sus aportaciones para la valoración y selección en los archivos", *Actas de las primeras jornadas sobre Metodología para la identificación y valoración de fondos documentales de las administraciones públicas*, Madrid, Dirección de los Archivos Estatales: 52-59.

SANTAMARÍA, Victorino, 1017. *Estudios notariales. Contribución a la historia del notariado en Cataluña*.

VOVELLE, Michel, 1973, *Piété baroque et déchristianisation en Provence au XVIII<sup>e</sup> siècle. Les attitudes devant la mort d'après les clauses de testaments*, Paris, Seuil.