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The Tears of a Killer

Criminal Trials and Sentimentalism in the Austrian Netherlands[1]

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A style of feeling known as the 'cult of sensibility' swept through Europe in the second half of the eighteenth century, stressing the importance of both sympathy and public tears. In this article, I argue that this new style to some extent also affected common people's emotional practices in the Southern Netherlands. Primarily using trial records, three phases in the history of sensibility are roughly distinguished. Up to around 1770, few traces of the cult of sensibility could be found and trial records only reported women as occasionally weeping. This changed in the 1770s and early 1780s, when men were also said to have wept. Only in the 1780s and 1790s, however, when male tears were already disappearing again, explicit references to sympathy were found. In the conclusion, I reflect upon the possibilities of trial records to study the history of emotions.

De tranen van een moordenaar. Strafprocessen en sentimentalisme in de Oostenrijkse Nederlanden

Een cultus van het gevoel waarde door het Europa van de tweede helft van de achttiende eeuw. De nadruk lag daarbij op zowel medelijden als publieke tranen. In dit artikel betoog ik dat deze nieuwe emotionele stijl ook een invloed had op gewone mensen in de Zuidelijke Nederlanden. Aan de hand van een analyse van verhoren en getuigenissen in procesdossiers onderscheid ik ruwweg drie periodes in de geschiedenis van de achttiende-eeuwse gevoeligheid. Tot rond 1770 bevatten procesdossiers weinig sporen van het zogenaamde 'sensibilisme'. Alleen van vrouwen werd soms vermeld dat ze huilden. Daar kwam verandering in tussen 1770 en 1785, toen ook van mannen soms werd gezegd dat ze weenden. Pas in de jaren 1780 en 1790, toen de mannelijke tranen alweer aan het verdwijnen waren, werden er expliciete verwijzingen naar medelijden gevonden. In het besluit reflecteer ik op de mogelijkheden van procesdossiers voor de geschiedschrijving van emoties.

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The Enlightened man was not only a man of reason. The Enlightened man was also a man of feeling. In the course of the eighteenth century, English, French, German and American thinkers started to consider emotions in a new way. Their novel approach to feeling lay at the core of the Enlightenment project to study human nature. Beginning in the early eighteenth century, English and Scottish philosophers such as the Earl of Shaftesbury, David Hume and Adam Smith, searching for a new principle to found a peaceful and moral society, developed a theory of 'moral sentiments'. Feelings of sympathy for others, they argued, formed the basis of conceptions of good and evil and would prevent total chaos in a society driven by self-interest. Their ideas strongly influenced French and German philosophers, who, like Jean-Jacques Rousseau, came to stress the virtues of pity as a natural and universal emotion.[2]

From the 1740s on, these ideas – or at least, adaptations of these ideas – spread through novels, plays and periodicals. Sentimentalist novels successfully invited their readers to sympathise with characters who dragged themselves from one heart-breaking incident to another, while literary magazines recommended a certain 'sensibility' to their readers.[3] Sensibility lost many of its intellectual aspects and became a cult of visible emotional expression. Soon, displaying a general sensibility became a common feature of letters, speeches, sermons, memoirs and personal diaries all over Europe. Especially tears developed into an important means to show that one was a sensitive man or woman, concerned about the fate of his or her fellow human beings. Only by the end of the century, the sentimental style started to be

1 The research for this article was funded by a fellowship of the Research Foundation – Flanders (FWO). The article is a significantly revised and expanded version of a paper I presented at the *Criminal Law and Emotions in European Legal Culture* conference in Berlin (21-22 May 2015). I would like to thank the participants of this conference, and Dorothee Sturkenboom, Tom Verschaffel, Kaat Wils, the members of the Cultural History Forum at KU Leuven and the editors and referees of *BMGN – Low Countries Historical Review* for their comments on earlier versions of this article.

2 On the intellectual origins of sensibility and sympathy, see: Frank Baasner, *Der Begriff "sensibilité" im 18. Jahrhundert: Aufstieg und Niedergang eines Ideals* (Heidelberg 1988); William M. Reddy, 'Sentimentalism and Its Erasure: The Role of Emotions in the Era of the French Revolution', *The Journal of Modern History* 72 (2000) 109-152, 119-124 DOI 10.1086/315931; Ute Frevert, *Emotions in History: Lost and Found* (Budapest 2011) 153-205.

3 G.J. Barker-Benfield, *The Culture of Sensibility: Sex and Society in Eighteenth-Century Britain* (Chicago 1992); David Denby, *Sentimental Narrative and the Social Order in France, 1760-1820* (Cambridge 1994); Annemieke Meijer, *The Pure Language of the Heart: Sentimentalism in the Netherlands 1775-1800* (Amsterdam 1998); Dorothee Sturkenboom, *Spectators van hartstocht. Sekse en emotionele cultuur in de achttiende eeuw* (Hilversum 1998).

severely criticised. For this reason, the eighteenth century has been dubbed 'the weeping century'.[4]

When considering the historiography of sensibility, I was struck by two of its aspects. The first is its focus on a particular type of sources: philosophical texts, novels, diaries, letters and magazines. In these sources, sensitive men and women were almost exclusively of the upper middling sorts. The cult of sensibility has thus been interpreted as a means of upcoming, consumerist urbanites to distinguish themselves from both the aristocracy with its 'stiff upper lip' and from the lower rabbles most associated with cruelty.[5] While I would not dispute that sensibility was part of a 'bourgeois' ideology, perhaps studying other sources could show that its ramifications on emotional practices reached further. The first aim of this article is therefore to investigate whether the cult of sensibility also influenced the emotional practices of people of lower social descent.

My second concern is about geographical differentiation in the history of sensibility. While the narrative of sensibility is a European one, research has mostly focussed on Britain, where the philosophy of fellow feeling originated, and France, where its cultural effects have been observed most clearly. Recent research has started to attend to sensibility in other countries and has found that it had different characteristics. The Dutch Republic, for instance, has traditionally been seen as a region where the culture of sensibility was only marginally influential. However, scholars such as Dorothee Sturkenboom, Herman Roodenburg and Edwina Hagen have shown that a more positive appreciation of sympathy and sensitivity was perceptible in Dutch journals, sermons and politics after circa 1760. While this evolution seems to have occurred later than in France, the positive appreciation of sentiment also

4 On the role of tears and weeping in sensibility, see Anne Vincent-Buffault, *Histoire des larmes: XVIIIe-XIXe siècles* (Paris 1986); Anne Coudreuse, *Le goût des larmes au XVIIIe siècle* (Paris 1999); Herman Roodenburg, '"Si vis me flere…" On Preachers, Passions and Pathos in Eighteenth-Century Europe', in: Jitse Dijkstra, Justin Kroesen, and Yme Kuiper (eds.), *Myths, Martyrs, and Modernity: Studies in the History of Religions in Honour of Jan N. Bremmer* (Leiden 2010) 609-628; Marco Menin, '"Who Will Write the History of Tears?" History of Ideas and History of Emotions from Eighteenth-Century France to the Present', *History of European Ideas* 40:4 (2014) 516-523 DOI 10.1080/01916599.2013.826430; Bernard Capp, '"Jesus Wept" But Did the Englishman? Masculinity and Emotion in Early Modern England', *Past & Present* 224 (2014) 75-108 DOI 10.1093/pastj/gtu011; Thomas Dixon, *Weeping Britannia: Portrait of a Nation in Tears* (Oxford 2015) Ch. 6-7.

5 For a discussion of sensibility as part of a strategy of the middling sorts, see Barker-Benfield, *The Culture of Sensibility*; Dorothee Sturkenboom, 'Historicizing the Gender of Emotions: Changing Perceptions in Dutch Enlightenment Thought', *Journal of Social History* 34 (2000) 55-75 DOI 10.1353/jsh.2000.0125; Sarah Knott, *Sensibility and the American Revolution* (Williamsburg 2009) 17-18.

seems to have lasted longer, through the development of a more moderate style of emotional display.[6]

The aim of this article is to further analyse the geographical and chronological variations in the culture of sensibility. In line with the often contested but still popular view that the Austrian Netherlands were a cultural wasteland, virtually nothing has been written about sensibility there.[7] It is my aim to investigate whether sensibility found its way into the Southern Netherlands and to analyse its chronology and characteristics. I hope to show that even while the literary production of sentimentalist novels and plays was limited and only occurred late in comparison to neighbouring countries, particular emotional practices such as male weeping became common around the same moment as in France, England, Germany and the Dutch Republic.

A history of emotions is never unproblematic. While the term 'emotion' was known in the eighteenth century, it did not carry the same meaning as today, referring mostly to a sense of agitation.[8] Sympathy would generally not be considered as an emotion, while weeping could signify much more than only emotionality or sentimentality.[9] Nevertheless, I will use the term 'emotion' as shorthand to refer to the variety of feelings and sensations that would today be characterised as emotions, without suggesting that they were or should be understood as somehow similar to each other. I approach these emotions as practices, in the sense that Monique Scheer has proposed: practices of naming particular conditions, practices to evoke certain sensations, practices of portraying and interpreting bodily movements, practices to regulate other people's emotions. These practices did not simply 'reflect' inner feelings: emotions only emerged in their doing and saying.[10]

6 E.g. Sturkenboom, *Spectators van hartstocht*, 295-352; Herman Roodenburg, 'Tranen op het preekgestoelte. De achttiende-eeuwse kanselwelsprekendheid tussen toneel en authenticiteit', *De Achttiende Eeuw* 41 (2009) 15-32, 25-30; Edwina Hagen, 'Fashioning the Emotional Self: the Dutch Statesman Rutger Jan Schimmelpenninck (1761-1825) and the Cult of Sensibility', *BMGN – Low Countries Historical Review* 129 (2014) 138-162, 159 DOI 10.18352/bmgn-lchr.9544.

7 Gerrit Verhoeven, '"Le pays où on ne sait pas lire": Literacy, Numeracy and Human Capital in the Commercial Hub of the Austrian Netherlands (1715-1775)', *European History Quarterly* 44 (2014) 223-243, 224-225 DOI 10.1177/0265691414523549.

8 Georges Vigarello, 'L'émergence du mot "émotion"', in: Georges Vigarello (ed.), *Histoire des émotions. 1: De l'Antiquité aux Lumières* (Paris 2016) 219-224. See also Thomas Dixon, *From Passions to Emotions: The Creation of a Secular Psychological Category* (Cambridge 2003).

9 Thomas Dixon, 'The Tears of Mr Justice Willes', *Journal of Victorian Culture* 17 (2012) 1-23 DOI 10.1080/13555502.2011.611696.

10 Monique Scheer, 'Are Emotions a Kind of Practice (and Is That What Makes Them Have a History)? A Bourdieuian Approach to Understanding Emotion', *History and Theory* 51 (2012) 193-220 DOI 10.1111/j.1468-2303.2012.00621.x.

It is my aim to question the historiographical narrative mainly based on sources such as plays, letters, memoirs and contemporary commentaries. Although I will refer to them in the passing, I will balance the picture emerging from these sources by primarily relying on criminal court records. Records of depositions and interrogations in criminal court reveal much about the emotional practices of people from lower social groups, among them many illiterates.

I collected 120 criminal court cases of homicide, suicide, prostitution and sodomy judged by the urban courts of Antwerp, Brussels and Kortrijk between 1750 and 1795. These 120 cases are all the cases before these courts concerning the selected crimes for which substantial interrogations or witness statements have been preserved.[11] I selected four crimes – homicide, suicide, prostitution, sodomy – to obtain access to a diverse range of judicial and emotional practices. As such, I did not choose them because I expected a direct influence of sensibility on homicide or sodomy cases, but because they give a platform to a wide range of people, especially to people of the lower social orders. There are differences between these cases: murder inquiries were generally extensive and heard many witnesses. Emotions of anger and shock were common. Suicide cases were generally less extensive, but often probed the feelings of the suicide. Most common were cases of prostitution, which were also most concise. Few witnesses were heard; but suspects often had an opportunity to voice regrets. Cases of sodomy were rare, but very thorough. In what follows, I will not focus on the differences between these types of cases. I am not so much interested in how people reacted to suicide or prostitution, as in how these reactions changed under the influence of sensibility. The four types of cases provide a wide view of the workings of criminal justice and of the people who were confronted with it.

Like novels, memoirs and letters, criminal court records were produced in a specific setting, with specific intentions and unequal power balances. Being interrogated or testifying usually occurred in a semi-private setting, in the attendance of one or more magistrates, sometimes the officer of justice and a clerk. Testimony was written down to be used as evidence. The defendant or witness read the transcription, or it was read to them, and they had to sign that it conformed to what they had said. In some courts, such as in Antwerp, a public trial could follow, in which witnesses were to

11 58 cases concern prostitution, 44 concern homicide, 13 concern suicide and 5 concern sodomy. Most of the cases (58) are from the capital, Brussels, mainly due to the high number of prostitutes prosecuted, while research in Antwerp (36) and the smaller town of Kortrijk (26) has yielded a smaller number of substantial cases. With respect to the periodization I make, 29 cases date from between 1750 and 1769, 62 from between 1770 and 1785, and 29 from between 1785 and 1795. These numbers result in part from differences in preservation; they do not necessarily reflect the actual number of court cases.

present their testimony before a larger audience, but these testimonies were not recorded.[12]

In criminal court, people practiced emotions in a strategic and sometimes insincere way, to evoke mildness or severity on the part of the judges. Moreover, people adapted their emotions to their expectations of what was proper in this setting, and to the expectations and pressures of the magistrates. Finally, clerks writing down people's words edited their narratives, perhaps leaving out emotional references they deemed inappropriate, perhaps selectively recording certain bodily movements. All this does not diminish the value of trial records, rather to the contrary. While the records of criminal courts do not offer transparent access to the voices of the common people, their power as official institutions ensures that trial records have a greater impact than just on the people involved.

Trial records were the result of negotiations between magistrates, prosecutors, witnesses and defendants. If particular emotions were reported, this means that they were not only offered by a single witness or defendant, but mutually recognised by the different parties involved as in some respect valid. The outcome of this negotiation was not only a testing of existing suppositions and experiences, but in turn influenced the different parties' emotional practices. While naturally, criminal courts had their own singularities, and I am certainly not suggesting that emotions should *only* be studied in criminal court records, criminal courts both reflected and influenced the wider emotional practices in the Austrian Netherlands. As sources for emotions history, they do not only seem useful, but indispensable.[13]

12 On criminal trial procedure in the Austrian Netherlands, see Jos Monballyu, 'De hoofdlijnen van de criminele strafprocedure in het graafschap Vlaanderen (16de tot 18de eeuw)', in: C. Van Rhee, F. Stevens, and E. Persoons (eds.), *Voortschrijdend procesrecht: een historische verkenning* (Leuven 2001) 63-108; Edmond Poullet, *Histoire du droit pénal dans le duché de Brabant, depuis l'avénement de Charles-Quint jusqu'à la réunion de la Belgique à la France, à la fin du XVIIIe siècle* (Brussels 1870) Ch. 6-7.

13 I will develop this point in the conclusion. For similar approaches to sentimentalism and criminal courts, see Dana Rabin, *Identity, Crime, and Legal Responsibility in Eighteenth-Century England* (Basingstoke 2004); Camilla Schjerning, 'Feeling Civic: Emotions, Gender and Civic Identity in Late Eighteenth-Century Copenhagen', in: Krista Cowman, Nina Javette Koefoed and Åsa Karlsson Sjögren (eds.), *Gender in Urban Europe: Sites of Political Activity and Citizenship, 1750-1900* (Abingdon 2014) 33-41. See also the papers presented at the *Criminal Law and Emotions in European Legal Culture: From the 16th Century to the Present* conference at the Max Planck Institute for Human Development in Berlin, 21-22 May 2015.

'Pour la triste ville où je suis, c'est le séjour de l'ignorance, de la pesanteur, des ennuis, de la stupide indifférence'.[14] In 1740, Voltaire not only bemoaned Brussels' supposed lack of intellectual activity, but also its emotional culture. Brussels was a 'sad city' of gravity, of boredom, of indifference. Indeed, he implied, no traces were to be found of the delicate *sensibilité* that was then beginning to be valued so highly in Paris. Although Voltaire, longing to return to his friends in France, was perhaps not the most neutral observer, literary and theatrical culture in the Southern Netherlands was indeed not exactly flourishing at the time. Original literary productions were limited in number and rather conservative, while theatres mainly programmed vaudeville and spectacle plays.[15] Before 1760, the increased display of emotions on Parisian stages, for instance in the 'comédies larmoyantes', hardly resonated in the Southern Netherlands.[16] In the criminal court cases I analysed from between 1750 and 1770, I have also found no traces of the cult of sensibility.

Ten years after Voltaire's sobering sketch of life in Brussels, fruiterer Jacob Mol was interrogated in Antwerp for having stabbed his wife, Françoise Ketelaer. Asked why he had done so, he told judges that it was 'because he had been in fury and huge anger'. Since their marriage nine years ago, Ketelaer had continuously insulted him, argued with him, and even attacked him. They had been officially separated for some time, but had recently started living together again. On the fatal night, however, Ketelaer was once again insulting him and had blown out the candles. Angry and fearful that she would hurt him, as she had done before, he took a knife and stabbed her. 'Now I think I'll have to die for a bitch', he then said to himself, for he thought he had killed her. He put on his best clothes and went to an officer of justice to turn himself in: 'you have to take me to prison, I have done an accident, I believe my wife is kaput.'[17]

She was, it turned out, not *kaput*, but had survived the stabbing. Mol's parents immediately petitioned for grace and the Antwerp judges were asked

14 Voltaire cited in Bram Van Oostveldt, *The Théâtre de la Monnaie and the Theatre Life in the 18th Century Austrian Netherlands: From a Courtly-Aristocratic to a Civil-Enlightened Discourse?* (Ghent 2000) 19.

15 Jos Smeyers, 'Van traditie naar vernieuwing. De Zuidnederlandse letterkunde in de Oostenrijkse tijd', in: Hervé Hasquin (ed.), *Oostenrijks België, 1713-1794. De Zuidelijke Nederlanden onder de Oostenrijkse Habsburgers* (Brussels 1987) 301-346, 351; Van Oostveldt, *The Théâtre de la Monnaie*, 61-65.

16 On the new theatrical fashion in Paris, see Colin Jones, *The Smile Revolution in Eighteenth Century Paris* (Oxford 2014) 59-60.

17 'Om dat hij in sijne eerste furie ende overgroot colere was', 'nu peijse ik wel dat ick voor eene canaille moete sterven', 'gij moet mij naert Steen lijden, ik hebbe een ongeluck gedaen, ik gelooven dat mijne vrouwe capot is'. Felix Archives Antwerp (hereafter FA) *Hoge Vierschaar (*hereafter *V)* 103 (Jacob Mol 1750).

for their advice. They agreed that Mol had committed his crime in a rage. 'If the wickedness of a woman may excuse such an excess of rage', they observed, several witnesses had confirmed that Ketelaer was 'a veritable fury'. All things considered, the judges advised that the case was suitable for receiving grace, as it had not been a premeditated crime, but 'a sudden rage', provoked by the victim's insults. Their advice was followed and Mol received grace on Good Friday.[18]

The emotional practices in Mol's case are typical for many cases of violent behaviour between 1750 and 1770. Anger is one of the most frequently mentioned emotions in the trial records I studied, particularly in homicide cases.[19] People were generally said to be angry when they were being insulted or accused of something, upon which they started shouting or became violent. The fact that this was recorded as such shows that suspects, witnesses and magistrates agreed that anger was an emotion which was expected and understandable in these situations. It was not necessarily *accepted*, however, as anger was generally negatively commented upon. It always figured as an excess that people should have been able to control.

For men, however, this excess was sometimes acceptable to the court, when their honour had been challenged. It could therefore be used as an excuse for committing a crime.[20] Since the sixteenth century, men who petitioned for grace and claimed to have been in a state of anger during their offences were often pardoned.[21] For women, in contrast, it was always an indication of their poor character. While men of all social status were sometimes said to be angry, only a few women were called angry, and they were all of the lowest descent. While witnesses in the case against Mol indicated that both Mol and Ketelaer were continually cursing and fighting, only Ketelaer was said to be 'an evil serpent of a bitch' and 'as vicious as a hellish devil'.[22] In the context of a trial, anger could only be understood as appropriate for people in a dominant position. Women angry with their husbands were out of line.[23]

18 'Si la mechanteté d'une femme put excuser un tel excès de rage', 'une veritable furie', 'une subite rage'. FA V 103 (Jacob Mol 1750).

19 Dawn Keetley, 'From Anger to Jealousy: Explaining Domestic Homicide in Antebellum America', *Journal of Social History* 42 (2008) 269-297, 272 DOI 10.1353/jsh.0.0079.

20 Schjerning, 'Feeling Civic', 36-40.

21 Kevin Pirotte, 'Les grâces du Vendredi saint et le gouvernement autrichien dans les Pays-Bas sous Marie-Thérèse (1740-1780): procédure, pouvoir central et normes judiciaires face à l'homicide' (Unpublished MA thesis, University of Leuven 2013) 94. For the earlier period, see Peter Arnade and Walter Prevenier, *Honor, Vengeance, and Social Trouble: Pardon Letters in the Burgundian Low Countries* (Ithaca NY 2015) 18-19; Nathalie Zemon Davis, *Fiction in the Archives. Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford 1987) Ch. 2.

22 'Een quaed serpent van een wijf', 'soo quaed is als eenen helschen duijvel'. FA V 103 (Jacob Mol 1750).

23 Sturkenboom, 'Historicizing the Gender', 59; Gwynne Kennedy, *Just Anger: Representing Women's Anger in Early Modern England* (Carbondale 2000).

For people not in a superior position, negative situations often resulted in reports of emotional practices similar to anger, but more passive. Although there was a great variety in these practices, I will group them as 'sadness', which I use as a generic description for more passive practices that were interpreted as related to regret, dissatisfaction, complaint and disappointment.[24] Both men and women were reported to be sad, but the emotion was again most often reported among men. After Francis Verlinden had shot one of his hunting mates in 1752, he was 'inconsolable', witnesses testified, 'very upset and lamenting about the incident'.[25] Similarly, after Pierre van de Wiele had shot a man near Kortrijk in 1757, he claimed to be 'deploring the fatal moment day and night', as it had been an accident.[26] Both applied for grace, but only Verlinden was successful, as he had more clearly established that the victim had been a close friend and that his grief was therefore sincere. This illustrates that emotional practices were also evaluated by the court: naming emotions did not suffice; the circumstances had to be right.

When these and other men were sad, they made this clear through their facial expression, by sighing, lamenting or keeping silent, but not – or at least this was never reported – by weeping. This corresponds with a common historiographical theme that in this period and in a secular context, weeping was considered a feminine practice. Men were only supposed to cry on very specific occasions, for instance, at the death of a child or partner, and even then, excess was to be avoided.[27] After he had accidently fired his gun, numerous witnesses testified that Francis Verlinden was 'moaning heavily' and 'lamenting heavily' for days after the event, but no-one said that he had wept.[28] Similarly, after Peter Coelembier had killed a man in a pub fight in Kuurne, near Kortrijk, witnesses observed him 'pitying himself with great melancholy for having done an accident' and 'moaning and calling on God and His saints for solace.'[29] But he was not reported to have wept. This may indicate that these men had not wept. This may indicate that they had wept, but that witnesses had not reported this. Or this may indicate that scribes had

24 Cf. Carol Z. Stearns, '"Lord Help Me Walk Humbly": Anger and Sadness in England and America, 1570-1750', in: Peter N. Stearns and Carol Z. Stearns (eds.), *Emotion and Social Change: Toward a New Psychohistory* (New York 1988) 39-68, 51-52.

25 'Inconsolabel', 'seer verplet was ende lamenteerde wegens dien voorval'. FA V 103 (Francis Verlinden 1752).

26 'Deplorant jour et nuit le moment fatal'. State Archives in Kortrijk (hereafter RAK) *Old City Archives (*hereafter OSAK) 8343.

27 Capp, 'Jesus wept', 75-104.

28 'Seer jammerende', 'seer lamenterende'. FA V 103 (Francis Verlinden 1752).

29 'Met groote weemoedigheijd sig ten uijttersten beclaegde dat hij [...] een ongeluck hadde gedaen', 'clagende mitsgaeders godt ende sijne heijligen aenroepende om troost'. RAK OSAK 10790.

▲

The death of friends was one of the rare occasions that allowed men to weep, and even then only with moderation. In this painting by Joseph Denis Odevaere (1775-1830), the capitally convicted Phocio remains heroically calm while waiting to take the deadly poison that his friends have already consumed.

Joseph Denis Odevaere, The Death of Phocio, 1804.

Collection Musea Brugge-Groeningemuseum. Photo: Lukas – Art in Flanders vzw (www.lukasweb.be).

chosen not to write this down. In any case, it signals that male weeping was found inappropriate in these circumstances.

The only incidents of weeping reported before the 1770s concern women weeping after someone close had died. Desperate after yet another argument with his wife Catharina Devinck in 1752, Nijt van der Neusen had committed suicide. After Devinck found him, witnesses saw her 'in shock, lamenting and weeping so much'.[30] In 1759, neighbours were woken at night when they heard a young woman crying. When they came to see what was going on, they found that her father had stabbed her brother and run off.[31] In both cases, the shock of discovering the death of a close relative allowed a woman to weep. In the records studied, men in similar situations were never reported to be crying.

Weeping for the Killer (1770-1785)

In 1771, upon hearing that Jean-Jacques Rousseau would be prosecuted in France, Prince Charles-Joseph de Ligne wrote a famous letter, inviting Rousseau to join him on his estate in Beloeil in the Southern Netherlands: 'On ne sait pas lire dans mon pays; vous ne serez ni admiré ni persecuté'.[32] When Ligne met Rousseau afterwards and the latter said that he preferred to stay in Paris, Ligne replied, as he later recalled, 'with tears in his eyes', '[b]e happy, sir. Be happy despite yourself.'[33]

Rousseau stood for the public and intense expression of feeling. His popularity in France coincided with the height of the cult of sensibility. In sentimental novels and bourgeois dramas, French citizens were confronted with an abundance of moral dilemmas and with characters shedding numerous tears.[34] As argued by scholars of sentimentalism such as Frank Baasner and William Reddy, this led to a 'trivialisation' (perhaps we should more neutrally call it a 'transformation') of sentimentalism in the 1770s and 1780s. Sentimentalism lost its intellectual aspects and the visible expression of sentiment became fashionable through all layers of society.[35] While earlier, men were not often supposed to weep, in this new emotional culture, things

30 'Die vrouwe sterk gealtereert was ende lamenteerde alsook seer sterk grijsde'. FA V 103 (Nijt van der Neusen 1752).

31 FA V 105 (Van der Goes 1759).

32 Cited in Friedrich Melchior Freiherr von Grimm and Denis Diderot, *Mémoires historique, littéraires & anecdotiques* I (London 1813) 57-58.

33 'Les larmes aux yeux', 'Soyez heureux, Monsieur, soyez heureux malgré vous.' Charles Joseph de Ligne, *Lettres et pensées du Maréchal Prince de Ligne, publiées par Mad. la Baronne de Staël Holstein. Troisième édition* (Paris 1810) 325.

34 Jones, *The Smile Revolution*, 61.

35 Baasner, *Der Begriff sensibilité*, 333-346; Reddy, 'Sentimentalism and Its Erasure', 125-126.

were changing: the 'man of feeling' was allowed to show his sensitivity, and even weep in public.[36]

Despite the Prince's disdainful remarks about the country's literacy, most recent French literary products, including sentimentalist ones, were by the 1770s well distributed in the Southern Netherlands, even if original productions of sentimentalist work remained rare. Booksellers sold the most recent Parisian bestsellers, while book clubs promoted discussion of the new ideas.[37] Since the 1760s, sentimental plays were performed on stage as well. Already in 1761, the *Annonces et avis divers des Pays-Bas* commented on 'the delicious pleasure of shedding tears' in a review of a performance of Diderot's bourgeois drama *Le Père de famille* in Brussels.[38] In the 1780s, some periodicals criticised French-loving 'sentimental lads'.[39] It should not surprise, then, that at the death of Empress Maria Theresa in 1780, Cornelis Franciscus de Nelis, who spoke a eulogy in Brussels, reported that the whole kingdom was 'in tears', which were 'shed with abundance'.[40]

In criminal courts, the emotional practices that I described in the previous section partially continued in the records of 1770s and 1780s. Men whose honour was challenged continued to be reported as angry and violent, although the excuse of male anger became less effective and was no longer considered sufficient grounds for grace.[41] Men and women alike continued to profess shock and sadness after committing or witnessing crime. Tears were still shed after finding out that someone close had died. Remarkably, however, whereas before 1770 and after 1785, I have not found a single report of male weeping, nine men were now reported to be weeping too – as compared to

36 Sturkenboom, 'Historicizing the Gender', 60-64; Capp, 'Jesus Wept', 106.

37 Hugo De Schampeleire, 'Verplichte lectuur te Antwerpen en Parijs in de 18e eeuw. Een comparatief quantitatief leesonderzoek naar Voltaire, Rousseau en de Encyclopedie', in: *L'influence française dans les Pays-Bas autrichiens et la Principauté de Liège au temps de Voltaire et de Jean-Jacques Rousseau* (Brussels 1979) 132-153; Michèle Mat, 'Boeken, ideeën, genootschappen in het Oostenrijkse "België"', in: Hervé Hasquin (ed.), *Oostenrijks België, 1713-1794: de Zuidelijke Nederlanden onder de Oostenrijkse Habsburgers* (Brussels 1987) 239-262; Karel Bostoen, 'Verlichte letteren in de Zuidelijke Nederlanden?', in: Andreas Hanou (ed.), *Verlichte letteren in Noord en Zuid* (Leuven 2004) 393-403, 396.

38 Cited in Van Oostveldt, *The Théâtre de la Monnaie*, 70.

39 'Sentimenteele knaepjes'. Published in *Den Vlaemschen Indicateur* in 1787; cited in Jozef Smeyers, 'Mevrouw de mode in de Vlaemschen Indicateur (1779-1787)', in: *Literair- en cultuurhistorische bijdragen: van Rousseau en Amerika tot Aalst en Brussel*. Cahiers 25 (Brussels 2004) 72-77, 74. Similar observations were made in Dutch journals: Sturkenboom, *Spectators van hartstocht*, 344-352. See also Tom Verschaffel, *De weg naar het binnenland: geschiedenis van de Nederlandse literatuur 1700-1800, de Zuidelijke Nederlanden* (Amsterdam 2017) 177-178.

40 Cornelius Franciscus Nelis, *Oraison funèbre de Marie-Thérèse* (Brussels 1781) 3, 23. Cf. Verschaffel, *De weg naar het binnenland*, 228-235.

41 Pirotte, 'Les grâces du Vendredi saint', 94.

only seven women (in a total of 62 cases).[42] The numbers are not huge, but clearly contrast with the earlier period. Moreover, these men did not just cry out of shock for what had just happened, but they also expressed grief of a different nature.

Let me expand on two cases. The first one concerns Jacob Ceulemans, a miller in his twenties, living in Laken near Brussels, in 1781. While playing cards, Ceulemans got in a row with Jan van Heijmbeeck, who insulted him. Both were 'in gruesome anger'. After some arguing, Ceulemans walked away, with Heijmbeeck in pursuit. In a dark alley, they started fighting. Ceulemans pulled a knife, stabbed his opponent and ran off. Passers-by found Heijmbeeck and called for a surgeon, but his intervention was to no avail: Heijmbeeck soon died of his injuries. Later that night, Ceulemans went to the same surgeon, asking him to come to attend to his father, who was supposedly ill. While they walked together, Ceulemans asked him 'whether nothing had happened in the parish', and the surgeon told him that Heijmbeeck had died. 'It's a sad time for the one who did it', Ceulemans replied. When they reached the mill where Ceulemans' father lived, the surgeon soon realised that no-one was ill. He saw Ceulemans go into the kitchen with his father and witnessed them weep together, as the father told his son to flee.[43]

A second case took place in Antwerp in 1782. A group of textile worker friends went to an inn for a drink. While heading home, they ran into a fight between Jan De Corte and another man, who objected to De Corte having looked into his daughter's eyes for too long. Things escalated and De Corte fled into his house. Some people followed him and the fighting continued. Ten minutes later, the corpse of one of the textile workers was found in the house. De Corte was the prime suspect, but there were apparently no witnesses. When the victim's friends headed to the mayor to report the killing, people saw that they were weeping and moaning. When they were heard during the trial, judges asked them why they were doing so. 'We were pitying the deceased, as well as his killer,' one of them said. Another claimed to have said to his friends 'let us, instead of weeping, rather read a paternoster for his soul.'[44]

42 Note that as a consequence of increasing criminal litigation and better preservation, the number of cases for this period greatly exceeds that of the earlier and later period. This may have increased the probability of encountering weeping men. I do not think, however, that this significantly affects my analysis.

43 'In soo grouwelijke colere', 'ofte niets in de prochie voorgevallen was', 'dat het eenen bedroeven keer was voor den genen die het gedaen hadde'. City Archives Brussels (hereafter SAB) *Historical Archives: Trials* (hereafter AH *Proces*) 6920.

44 'Den dooden seer beclaeght heeft, mitsgaeders den daeder van het voors feijt ', 'laet ons, in plaetse van grijsen, liever eenen paternoster voor sijne ziele lesen'. FA V 116 (Jan de Corte 1782).

In these two cases, men's tears were explicitly commented upon. These men cried in a distinct way: they were not weeping alone, they were weeping together with other men. Moreover, certainly in the second case, they were not weeping out of shock or for their own sad fate, but because they sympathised with others. It is remarkable that in both cases, men were ostensibly eliciting compassion not only for the victim, but also for the killer – even if, in Ceulemans' case, this turned out to be self-pity. This agrees very well with the values of sentimentalism: men of feeling were not supposed to worry about themselves, but primarily about others.[45] Nevertheless, these men were still closely involved in the situation they wept about: Ceulemans' father wept about his son's fate, and the textile workers' tears led judges to question whether the killer had not been a friend of them. While this is contrary to some sentimentalist authors who suggested that men of feeling should also feel for strangers, it agrees with David Hume's observation that sympathy was strongest when resemblance was the highest, and that therefore 'the sentiments of others have little influence when far remov'd from us'.[46]

Between 1770 and 1785, I have found roughly four scenarios in the trial records in which crying occurred. First, as in the previous period, some women cried upon discovering a dead body, out of shock. Men were never reported to be crying out of shock. Second, as in the examples above, some men and women were reported to weep out of sadness, perhaps even out of compassion. A third scenario has people weeping after they had done something, or something had happened to them, that they knew was reprehensible. It was a way of practicing regret, shame or guilt. For instance, in 1777, Catharina Tusson's daughter had had sex with a man and received money. She claimed that she had been forced to do so. To support her innocence, her mother reported that she was 'still weeping every day'.[47] Similarly, while Peter Hengs committed sodomy with an older man, he 'continually wept out of regret', despite his partner's reassurances.[48] Finally, crying could occur when people were in a very grim situation, as a practice of desperation and misery. When Jan De Corte continued to deny the murder allegations, judges had him chained in a dark and cold cellar, where during one visit, they found him weeping.[49]

The cult of sensibility is often associated with the 'middle class' or the 'bourgeoisie', as part of their attempts to differentiate themselves from the aristocracy on the one hand and common people on the other.[50] The

45 Nicole Eustace, *Passion Is the Gale: Emotion, Power, and the Coming of the American Revolution* (Williamsburg 2008) 244-247.

46 Cited in Frevert, *Emotions in History*, 153-155. On the necessity of feeling for strangers, see Sturkenboom, *Spectators van hartstocht*, 306-307.

47 'Nogh daegelijckx is weenende'. SAB AH *Proces* 7673.

48 'Van spijt niet en dede als grijsen'. FA 731 1514/2.

49 FA V 116 (Jan de Corte 1782).

50 Sturkenboom, 'Historicizing the Gender', 62-63; Knott, *Sensibility and the American Revolution*, 17-18.

references to sentimental practices in criminal records are too sparse to come to definitive conclusions, but what I have found does point in a certain direction. I have not encountered any aristocratic weeping men in the court records, but that is probably due to their very infrequent appearances in criminal court. The writings of the Prince de Ligne reveal that at least some of them happily participated in the new emotional culture.[51] The weeping men whom I have found, however, are certainly not all of the higher 'middle class': the textile workers in the case against Jan De Corte were not even able to write their own names, and millers Jacob Ceulemans and his father were hardly among the better sorts. Most of the people who testified about weeping would certainly not have read intellectual works on sensibility – although some of them may have seen a sentimental play or read a novel.[52] Most were skilled artisans, mainly associates and some masters: weavers, millers, cobblers. No journeymen or beggars were reported weeping, but lower middling sorts did apparently take part in the new emotional culture. It seems to have had a wider reach than just the 'bourgeoisie'.

The increased – but still limited – reporting of male tears could again be interpreted in different ways. It could be that men wept more often; that witnesses reported this more often; that judges or scribes found this more noteworthy. But that does not change the conclusion that apparently between around 1770 and 1785 the official records of the criminal court, which resulted from a compromise between all the actors involved, show that it was not unthinkable that men, even those of the lower social orders, wept in particular circumstances. In contrast with the angry women, this was not negatively evaluated. These findings suggest that, between 1770 and 1785, the cult of sensibility had an impact on emotional practices in the Southern Netherlands. However, these emotional practices were perhaps not so much influenced by an intellectual 'sensibility', as by a more visible and more tangible 'sentimentalism', which stimulated the overt display of tears. In plays, novels and eulogies, but also in society at large, people witnessed the rise of tears and learned its uses. The interactions and official recordings in criminal courts further normalised the new practices of weeping.

Suing with Sympathy (1780-1795)

In 1796, Jan Hofman's bourgeois drama *Den onbermhartigen schuld-eisscher* was performed in Kortrijk for the first time. In its opening lines, count Verhulst,

51 See, for instance, his memoirs, filled with sentimental language: Charles Joseph de Ligne, *Fragments de l'histoire de ma vie*, Jeroom Vercruysse (ed.) (Paris 2000).

52 On literacy in the Southern Netherlands, see Verhoeven, "Le pays où on ne sait pas lire".

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Much was at stake in criminal trials. As a result, during the wait for the final verdict, emotions could run high. The British painter Abraham Solomon (1824-1862) immortalized the feelings in court.
Abraham Solomon, Waiting for the Verdict, 1859.
Collection Getty Center, Los Angeles. Photo: Getty's Open Content Program.

the merciless creditor in the title, demanded immediate payment of overdue rents by the poor old Lambrecht. While Lambrecht lamented on his poverty ('Dat ik uw Schuldenaar moest zyn, heb ik beschreid met bittre traanen'), his daughter Lidia bemoaned the count's lack of compassion ('Uw hart gevoeld geenszins het minste medely').

Verhulst, however, would not bend, on the contrary, in all his villainy, he suddenly revealed Lidia's best kept secret: that her so-called sister Julia was actually her illegitimate daughter. Lidia fainted. Upon recovering, she confessed to Julia, that indeed, she was not her sister. 'Neen, mijn Julia! Ik ben uw eigen moeder.' Only after many exclamation marks, suspension points, sighs, and tears, it was revealed that the rightful heir of the county was not Verhulst, but Julia's father, Lidia's lover. When Verhulst was dethroned, but pardoned by the new count, he finally realised that greed had led him to abandon virtue, in particular compassion for the poor, and promised to mend his ways.[53]

In the last twenty years of the eighteenth century, the original production of sentimental works in the Southern Netherlands finally took off. Sentimental outpourings were no longer limited to eulogies. In the bourgeois dramas of middle-class rhetoricians such as Hofman in Kortrijk and Pieter-Joost de Borchgrave in Wakken, emotional display stood central.[54] Cornelis Franciscus de Nelis' collection of dialogues *L'aveugle de la montagne* opened with a recently blind father telling his moaning son not to pity him too much.[55] In 1785, the *Vlaemschen Indicateur* published a story about a man pitying his suffering dog, while in another story, a young man wept out of sympathy with a stranger who had lost his house in a flood.[56]

In neighbouring countries, however, sentimentalism was starting to receive criticism. At the end of the eighteenth century, the 'man of feeling' who recited poetry and wept in sympathy with the sad fate of fellow humans was increasingly considered unmanly. The cult of sensibility was found to be passive, lacking in activity. Feelings had to be put to action.[57] The sincerity of public emotional expressions came to be doubted.[58] The political turmoil at the end of the century and the new focus on rigid gender identities left little room for male sentimentalism: honour once again became the guiding

53 Jan Baptist Jozef Hofman, *Den onbermhartigen schuld-eisscher, of de deugdzaame in armoede* (Kortrijk 1796).

54 Smeyers, 'Van traditie naar vernieuwing', 342-345; Verschaffel, *De weg naar het binnenland*, 168-177.

55 Cornelius Franciscus Nelis, *L'aveugle de la montagne* (Amsterdam 1799) 4-5.

56 'Merkwaerdig voorbeeld van getrouwheyd in eenen hond', *Den Vlaemschen indicateur* 14:7 (1785) 106-108; 'Beloning der neerstigheyd', *Den Vlaemschen indicateur* 14:22 (1785) 343-344.

57 Frevert, *Emotions in History*, 173; Karen Halttunen, 'Humanitarianism and the Pornography of Pain in Anglo-American Culture', *The American Historical Review* 100 (1995) 303-334, 308 DOI 10.2307/2169001.

58 William M. Reddy, *The Navigation of Feeling: A Framework for the History of Emotions* (Cambridge 2001) 270-271; Jones, *The Smile Revolution*, 152.

principle for male behaviour. Male tears once again became effeminate, shameful and unnatural. Sensibility became a female and private affair.[59]

The trial records I consulted from between 1785 and 1795 seem to confirm this picture. After 1785, no more men were reported to be weeping. Illuminating in this respect is the case of Maria Reps in 1789. Reps was married, but had been sleeping with another man, Joannes Dingemans, for several years. For unclear reasons – adultery was almost never prosecuted at the time – the case came to court and after her interrogation, the scribe noted that Reps 'has fallen on her knees before the commissioners and shown great grief over her mistakes, and cried bitter tears, begging and requesting' a settlement. When Dingemans was questioned, he too asked for forgiveness, but it was simply stated that he requested a settlement for having kept a relationship with Reps while she was married. The woman wept, the man did not.[60]

The sentimental plays seem like an anomaly. They were, admittedly, late examples of the sentimental style. But they already bear the mark of changing emotional practices, for, while Lambrecht claims to have wept bitterly over his debts, it are clearly Lidia and Julia who are most overtly sentimental, constantly trembling, sighing, weeping and fainting on stage. Moreover, the central theme of the play – the virtue of compassion – was still a pressing issue. As I indicated in the introduction, sympathy lay at the heart of the sentimental project.[61] In the philosophy of sensibility, feelings of sympathy would lead to a better, more moral world. This ideal led to a more positive appreciation of emotions and especially of tears, as symbolised by the weeping men I discussed in the previous section. Slightly later, it also resulted in more people explicitly referring to sympathy in criminal courts. Thus, in the Southern Netherlands, the age of sensibility was not entirely over. While the most visible expressions of sentimentalism, male tears, were disappearing, its underlying principle started to flourish precisely in this period.

Between 1780 and 1795, sympathy and compassion were more often referred to in trial records than before. Of course, compassion had always had

59 Reddy, 'Sentimentalism and Its Erasure', 145; Sturkenboom, 'Historicizing the Gender', 65-69; Capp, 'Jesus Wept', 107. This view has been complicated, however, in studies of successful politicians in the late eighteenth century, who continued to use tears in their self-fashioning: Hagen, 'Fashioning the Emotional Self'; David Andress, 'Living the Revolutionary Melodrama: Robespierre's Sensibility and the Construction of Political Commitment in the French Revolution', *Representations* 114 (2011) 103-128 DOI 10.1525/rep.2011.114.1.103.

60 'Hebbende de comparante voor ons commissarissen op haere knieën gevallen ende over de voorschreve haere fauten groot leetwezen getoont, ende bitterlijk geweent, smeekende ende versoekende [...]'. FA V 122 (Maria Reps 1789).

61 Sturkenboom, *Spectators van hartstocht*, 299-303; Eustace, *Passion Is the Gale*, 239-279; Frevert, *Emotions in History*, 153-161.

a place in criminal trials. When applying for grace, supplicants appealed to the compassion of the king. While this display of compassion was the prerogative of the sovereign, magistrates and prosecutors were asked for advice and also framed this in terms of compassion.[62] When Peter Coelembier applied for grace in 1765, the prosecutor advised that his 'gruesome malice merits punishment rather than compassion'.[63] In the case of Nicolas Kreijsscher in 1772, however, both judges and prosecutor suggested that he was 'worthy of commiseration'.[64] Outside the sphere of grace, however, the language of compassion or sympathy was rarely spoken in criminal court.

However, starting in the 1770s, the language of compassion began to occur in witness statements. Compassion appears as an active sentiment, clearly rooted in ideals of catholic *Misericordia*, in the idea that people had to assist fellow Christians in need to ensure their own salvation.[65] While these ideals were centuries old, they are not referred to in the trials of the 1750s and the 1760s. In 1774, however, a spinner told judges that she had employed and sheltered Anna Catharina Van den Rijn, suspected of infanticide, 'out of compassion.'[66] Another woman had lodged a suspected prostitute 'out of pure sympathy' in Antwerp in 1787, which yet another woman in Brussels had equally done 'out of compassion' in 1791, as the prostitute in question had been 'almost naked'.[67] These and other women, some of them literate, some of them not, used the language of compassion to protect themselves and take distance from the reprehensible individuals whom they had apparently supported. Surprisingly, perhaps, a language that was intended to connect people was used as a tool to stress difference and superiority. But the fact that they were able to use this language shows its growing importance.

This patronising form of *caritas*-like compassion was not only referred to by women. Men similarly used the language of compassion to create distance from other people. This could be particularly urgent for men suspected of sodomy. Such was the case for Peter Stocker, a cobbler tried in Antwerp in 1781. Two young men had told judges that Stocker had seduced them and had intercourse with them. When these magistrates questioned Stocker, he was asked why one of them, Philip Mainard, had spent so much time at his house. Stocker told them that Mainard came to his house because he did not have fire at his own place, and 'that he sometimes gave him some

62 Marjan Vrolijk, *Recht door gratie: gratie bij doodslagen en andere delicten in Vlaanderen, Holland en Zeeland (1531-1567)* (Hilversum 2004).

63 'Welcke grousame moetwilligheden meer straffe als compassie meriteren'. RAK *OSAK* 10790.

64 'Digne de commiseration'. FA V 108 (Nicolas Kreijsscher 1772).

65 On the difference between *misericordia* and sympathy, see Frevert, *Emotions in History*, 167-168.

66 'Uijt compassie'. FA V 110 (Anna Catharina Van den Rijn 1774).

67 'Uijt puere meedoogenthijt'. FA V 120 (Catharina Van Laer 1787). 'Uyt compassie', 'schier naakt'. SAB *AH Proces* 10071.

bread out of compassion', but denied all other allegations.[68] In the same year, when Joannes Le Febure claimed that Georges Beauclerk, Duke of Saint-Albans, had tried to buy his sexual services in Brussels, the Duke asserted that he had only given Le Febure a little money 'out of compassion'.[69]

In the 1780s, this form of compassion was joined by another, more passive and more egalitarian form. This form was often called 'sympathy' in English literature, but contemporaries in the Southern Netherlands do not seem to have made such a difference between terms like 'compassie', 'meedoogen' or 'medelijden'– they could refer to both active, patronising and passive, egalitarian sentiments. The more egalitarian sentiment can be witnessed in the cases that I discussed in the previous section: the companions of Jan de Corte wept out of sympathy with the victim and the perpetrator of the crime, while Jacob Ceulemans expressed his pity for the killer (although it was ill-disguised self-pity). Such passive forms of compassion were also testified of during the revolutionary turmoil of the late 1780s and early 1790s. The case against Joannes Bulens in 1791 is emblematic in this respect.

In October 1790, Willem van Kriecken, a supporter of the more radical revolutionary faction, the Vonckists, was publically hanged by supporters of the opposing faction, the Statists, among them Joannes Bulens. Although the Statists were in power at the time, the hanging had not been officially sanctioned. Shortly afterwards, the Austrian government was restored and in early 1791, the perpetrators of the hanging were prosecuted. Witnesses of the execution, which had taken place on the Grand Place in Brussels, were plenty. However, many of the witnesses allegedly left after they had become aware of what was happening. One 28-year-old fish seller told judges that he had encountered the crowd escorting their victim and 'seeing this, he felt great compassion, and quickly retired'. When he later saw them again on the Grand Place, he 'couldn't bear to watch' and left. Many other witnesses, all men of the middling sorts, testified that they were unable to watch such atrocities because they sympathised with the victim, or that they were in shock afterwards.[70] Rather than showing the savagery of the rabble, as some have interpreted the hanging of Van Kriecken, the state of shock that many witnesses testified of is testament to the sensibilities of the time.[71]

Even prosecutors started to frame their demands in terms of sympathy and compassion. They traditionally took the harsh stance. While they could

68 'Dat hij hem uijt compassie somtijts wel eenen boterham gaf'. FA 731 1514/2.

69 'Par compassion'. SAB AH *Proces* 8209.

70 'Sulcx gesien hebbende, daer van groot medelijden hadde', 'sulcx niet konnende sien'. SAB AH *Proces* 7124 and 8146.

71 H.J. Vieu-Kuik and Jos Smeyers, *Geschiedenis van de letterkunde der Nederlanden* 6 (Antwerp 1975) 475-476.

show clemency by not prosecuting someone, when they did prosecute, their most emotional outpourings were calls for severity and, though infrequently, impatience or anger. In the case against Joannes Bulens, however, the prosecutor used the language of sympathy: the defendant had been granted a solicitor, who was stalling the case, to the annoyance of the prosecutor. He claimed that the solicitor was acting against the interest of his client and portrayed himself as concerned with the well-being of 'the poor prisoner', whom the solicitor 'made suffer in prison all this time'. Given that Bulens could be convicted to death, we should probably not take the prosecutor at his word, but it is significant that he used the language of sympathy to make his case.[72]

Sympathy, it could be said, had become an intrinsic part of criminal justice, just like anger had been before. In Kortrijk in 1788, Augustin Strobbe even went so far as to suggest that the display of sympathy destroyed his guilt. In 1787, Strobbe was drinking in an inn. The innkeeper refused to serve Strobbe any more beer, judging that he was already too drunk. Strobbe answered that he still had all his strength and to prove this he went outside to move a cart. The owner of the cart, however, tried to stop Strobbe from doing so. Strobbe then hit the owner, who fell badly, had a severe head injury and died some weeks later. In his defence, Strobbe's solicitor argued that Strobbe was acting 'uncontrollably and tempered', which should not surprise, as he was known as 'Pierre the rude' for his hot temper. Moreover, the solicitor continued, after the fall, Strobbe had helped to carry his victim to his house, 'which sympathy clearly shows that the defendant was not in wrath'.[73] As the excuse value of anger had diminished, sympathy was now to remove guilt.

A form of sensibility closer to its intellectual origins thus found its way into criminal courts and into society through the language of sympathy and compassion, be it slightly later than the language of tears. The association with gender and social status is also less clear: the most striking changes are found among elite men – prosecutors and solicitors – but lower middling men and women, literate and illiterate, also started to refer more often to various forms of compassion. At a time when sensibility started to be criticised abroad and when male tears were starting to disappear, the value of sympathy was affirmed in the Southern Netherlands, both in literary and in legal contexts.

In Conclusion: What the Tears of a Killer Can Tell Us

In the second half of the eighteenth century, emotions functioned in roughly three ways in criminal trials. First, when the accused had practiced certain

72 'Om den armen gevangenen in gevangenisse te doen creveren'. SAB *AH Proces* 7124.

73 'Onbedaert en colericq', 'Pieren den ruden', 'welk medelijden claerlijk aentoont dat den verw. in gramschap niet en was'. RAK *OSAK* 15131.

emotions after their supposed crime, judges were eager to consider this as a sign of their guilt. For instance, in some cases judges asked suspects why they had been weeping, with a distinct indication that this confirmed that they had done something wrong.[74] A second reason for the legal interest in emotions was that they could explain behaviour and even be seen as a reduction of responsibility. A 'state of anger', or 'desperation', for instance, was sometimes cited by defendants or witnesses in their favour as a cause for doing something they would otherwise not have done. They had not been themselves during their actions and were, as a consequence, not fully responsible. Finally, practicing and naming emotions in court was a way of provoking sympathy among judges. Defendants took responsibility for their actions, but practiced guilt, shame or regret, hoping to gain a more favourable sentence.

Given this pragmatic interest in emotions in the criminal justice system, the changing emotional practices in criminal trial records could be interpreted in different ways. Very minimally, they can be seen as mere changes in the fashionable writing style of trial records, or as changes in the (legal) priorities of judges, solicitors and scribes: as they became more interested in tears and sympathy, they started to record it more often. A slightly broader interpretation could suggest that the emotional practices reported in criminal courts were indeed not the result of changing emotions among witnesses and defendants, but the result of their changing ideas about what judges wanted to hear. If people started to refer more to tears or to compassion, this interpretation would suggest, this was not because they wept more often or were moved by others' misery, but because they expected that judges wanted to hear this. The final and most generous interpretation would allow that people's changing emotional practices in court actually reflected their changing emotional practices elsewhere and that criminal court records therefore provide reliable evidence of everyday emotional lives.

I would argue that none of these interpretations do justice to the emotional practices found in criminal court records. I believe that criminal trial records provide more than just a glimpse into the specific emotional setting of the criminal court or even into the emotional lives of the people involved. Criminal law and criminal trials not only reflected models of society, but also provided models for society. Criminal courts are, as Ute Frevert has suggested, 'emotional institutions'.[75] They are formative of emotions, shape their language, suggest which emotions are acceptable or commendable and which are not. In the courts, in the interaction between judges, prosecutors, solicitors, witnesses, victims and defendants, emotional practices were evaluated, stimulated and repressed. Criminal trials involved many people who were influenced by its debates and decisions and who in turn influenced

74 E.g. in the case of Norbert Tomas: FA V 113 (Norbert Tomas 1778).

75 Ute Frevert, 'Reflections', *Criminal Law and Emotions Conference.*

others, precisely because of the status of the court. Considering the criminal court as formative of emotional practices allows us to bridge the gap between court and society, just like the concept of emotional practices itself bridges the gap between expression and experience.[76] While we should not ignore strategical statements and power dynamics, what happened in criminal court should not be dismissed as *just* strategical. Like novels and magazines, trial records only show a particular context of emotions; but like these other sources, trials also form people's emotions.

This approach implies that trial records are significant sources when discussing the emotional culture of the Southern Netherlands. First of all, I have shown that the cult of sensibility, which characterised many European countries in the second half of the eighteenth century, also had an impact on the Southern Netherlands, despite its reputation as backward country and its lack of original literary productions. In criminal courts, new emotional practices were negotiated and spread – even if the extent of the new practices remains difficult assess. I have distinguished three phases in the history of this cult. In the first phase, up to around 1770, few traces of the cult of sensibility could be found in the Austrian Netherlands, neither in trial records nor in literary productions. Anger and sadness were the dominant emotions found in trial records. Only women were occasionally reported as weeping. This changed in the 1770s and early 1780s: although weeping was still not reported very often, criminal courts now accepted that men also wept, often even in public. These visible practices of sentimentalism were initially not accompanied by references to the all-important emotion of sympathy. Only in the 1780s and 1790s, when male tears were already disappearing again, explicit references to compassion, sympathy and pity found their way into both trial records and literary productions.

My analysis is based on a limited sample of 120 criminal cases. Studying more cases may reveal occasional weeping men in the 1750s or 1790s, or may require adjusting the boundaries of the three phases. From what I have found, however, the occurrence of weeping men in the Southern Netherlands coincided with what has been called a 'trivialisation' of sentimentalism in France and Germany in the 1770s and 1780s. With respect to this visible expression of sensibility, the Southern Netherlands therefore seems to have followed a similar chronology as its neighbouring countries. However, the intellectual underpinning of sentimentalism, the expression of sympathy, only came up much later than in neighbouring countries. In French, British and American novels, essays, newspapers and pamphlets, for instance, the language of sympathy gained currency from the 1740s on.[77] In Dutch literary reviews, in contrast, sympathy only became a popular

76 Scheer, 'Are Emotions a Kind of Practice'.

77 Rabin, *Identity, Crime, and Legal Responsibility*, 71; Eustace, *Passion Is the Gale*, 552n69.

theme from 1770 on.[78] Like in the Northern Netherlands, then, it seems that the more subtle form of sentimentalism arrived later in the Southern Netherlands, and lasted longer, than its visible expression through male tears.

Sensibility most visibly affected male emotional practices, as men were only reported to weep during a short period, roughly between 1770 and 1785. Contrary to what is commonly accepted, I have found that the changing weeping practices did not only affect bourgeois men: at least some noblemen and perhaps more surprisingly, some illiterate men also started to weep in a new way. With respect to references to sympathy, social and gender differentiation is less clear. The most visible changes here are among prosecutors and solicitors, but lower middling men and women, literate and illiterate, also started to refer more often to various forms of compassion and sympathy.

The tears of the killers in this article show us that the culture of sensibility may have started in Britain and France as an intellectual and bourgeois affair, but that it transformed in its dissemination. As ideas were set into practices and spread through plays, literary magazines, eulogies, criminal courts and other institutions, it was primarily the most visible aspect of sensibility, weeping, that quickly gained currency, not only among the bourgeoisie, but also among common people. However, as male tears once again disappeared, the underlying idea of sympathy continued its spread. An expressive form of sentimentalism preceded a more intellectual one, and was outlived by it.

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78 Sturkenboom, *Spectators van hartstocht*, 296.