# Corruption in pre-modern societies

## CHALLENGES FOR HISTORICAL INTERPRETATIONS

Edited by
MARIA FILOMENA COELHO
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# Contents

# Introduction

This is an unlikely book. The chapters to come deal with a topic that many would consider to be a false research problem, an uncertain subject with no cut-off points or duration. After all, a long intellectual and legal tradition dating back to the 19th century ensures that corruption was not a relevant issue before the Enlightenment and liberal modernity. Not because it was absent from life in society — *au contraire*. The practices and behaviours that Modernity recorded as corrupt, continues this tradition, were ubiquitous: clientelism, patrimonialism, nepotism, venality, as well as all sorts of abuses in the exercise of power were everywhere, they were seen as common place and even necessary to the point of being indistinguishable from everyday normality. Therefore, to discuss the history of corruption before 1800 would be to propose analyzing something too vague and indistinct, inscribed with invisible ink in the historical records. This is the capital challenge faced by the authors of this book. One of the links that unite their studies shows that ancient, medieval and colonial societies produced complex discourses on corruption, which emerge from the documents with different meanings, of which the notion of excesses and deviations in dealing with the power to govern was just one of its many facets. However, these discourses also share other themes, increasing the scope that the name of corruption reaches: the relevance of the notions of public power and the common good for these societies; the webs of social norms woven around the ideals of justice and the delegation of power; the ingenious recreation of the meanings given to tradition and the role of institutions. Such an effort implies re-examining established formulas about so-called pre-modern societies, such as the endemic confusion between public and private, the normalization of arbitrariness as a cultural trait or the emergence of anti-corruption as a movement to deny the society in question - formulas that can even be found in the process of historical knowledge itself.

In the course of the arguments gathered here, this capital challenge unfolds into others that are equally provocative about the modern understanding of corruption. One of the demands that emerges from the historical evidences — and historiography!

— is the necessity of overcoming the understanding of corruption as a question of morality, as if finding a corrupt individual were enough to unravel the tangle of social relations that led ancient, medieval and colonial people to talk about corruption and, above all, to denounce it. Casuistry is not enough. Accusations and convictions in this sense were not merely reactions to offences accumulated over the course of a biography. The attribution of the reputation of being corrupt was part of the arsenal of rhetorical weapons available to certain social groups to disqualify their competitors for government power and control of the wealth produced collectively. Engaging and strategic, the records left by corruption in pre-modern societies can hardly be seen as disinterested discourses. They are evidence of the intense struggles within elites for power to classify behaviour, practices and positions at the top of a social hierarchy. We have thus reached another characteristic shared by the studies that make up this book, another challenge: that of understanding corruption as a political phenomenon. This does not mean, of course, denying that individuals considered corrupt by their contemporaries and even by posterity had, in fact, transgressed social norms and values. It does mean realizing that there was a certain ideological fluidity, i.e. that the behaviours and actions so vehemently repudiated in one case were not cause for indignation in other circumstances; it also means realizing that the norms and values transgressed and presented as collective and consensual precepts were norms and values controlled by circles of interests; finally, it means emphasizing that notions central to discourses on corruption, such as the nickname of the virtuous or the meaning of money, could be constantly rewritten by the correlations of forces within institutions and spaces where power was concentrated. The challenge of explaining corruption politically becomes even more complex when dealing with ancient, medieval and colonial societies. There are two reasons for this. Firstly, it is a question of explaining how bribery, favouritism or even co-optation were referred to in contexts permeated by relationships of personal interdependence, the logic of reciprocity, the granting of bounties, gifts and offices. Secondly, it is important to demonstrate how times steeped in Christian religiosity, with daily life dominated by the actions of religious agents, were marked by political rationality: what social reason governed perception and action in relation to corruption in contexts before Western secularization?

The historians who co-authored this book faced the challenge of answering this

fundamental question as a research group. In 2020, *De Corruptione*[1] was created at the History Department of the University of Brasília, with the aim of studying corruption from a political perspective. Although the initial chronological cut-off was centred on the Middle Ages, it was quickly realized that it would be advantageous to extend the period to include a pre-modern scenario. The researchers who are members of the group meet regularly to debate ideas and methodologies around the problem of corruption, and this book is the result of these thought-provoking meetings. Six of the seven chapters that make up the book were produced over the last few years in a dynamic collective dialogue, the fruits of which, in the end, reflect shared points of arrival, but — and perhaps more importantly - also theoretical and methodological doubts, modulated in an authorial way in the texts that we now present.

The book is organized with two initial chapters focusing on theoretical, methodological and historiographical reflections. The first, 'Corruption in the Middle Ages as a research problem', by Maria Filomena Coelho, explores the difficulties and challenges faced by those who set out to study this subject in an era commonly classified as corrupt 'by nature', drawing attention to the need to construct keys of analysis with a strong historical and political character to understand the role of corruption in that societal model. The second chapter, by Leandro Duarte Rust, allows us to identify the interpretative logics mobilized by scholars, derived from the great frameworks established by Western historiography, and which, in the case of corruption affecting the ecclesiastical world, is revealed in the title: 'An *Ancien Régime* for the Papal Revolution: "corruption" as a latent philosophy of history.' The second part of the book analyses and explores the problem of corruption in various historical contexts, in a period that goes from the High Middle Ages to the late Modern Age, covering a wide area, from Asia Minor to America. Renato Viana Boy writes the third chapter, 'Between law and history: a study of corruption in the Byzantine Empire through Justinian's Digest (6th century)', in which he points out the possibility of considering the legislation that typifies this sort of crime as an important instrument of imperial politics. The fourth chapter, by Charles West, has a special significance for *De Corruptione*, as it is the result of the opening conference of the II *Encontro*,[2] but

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[1] www.decorruptione.com

[2] Available at: https://www.decorruptione.com/ii-encontro-de-corruptione-2023. Accessed: June 20, 2024.

which, as can be seen in the text, was formulated by the author in dialogue with the group's research. His contribution highlights the interest of broadening the field of observation because when we consider 'Corruption in the Middle Ages and the Problem of Simony,' we discover a much broader scenario in which historical agents understood that deviance could happen. The text that makes up the fifth chapter, 'Lesser and corruptible: the worth of a humble man's word during the Middle Ages,' by Armando Torres, highlights how public life, as a dimension in which corruption 'occurs,' is conceived according to hierarchical social standards, umbilically connecting moralizing discourses and the political perspective on the subject. This is followed by the sixth contribution, by Alécio Nunes Fernandes, who, starting from the question 'Corruption, for whom? What the sources say, what historians see,' makes it possible to delve deeper into the legal and political intricacies of the accusations, based on the written records of a 'solid' institution such as the Holy Office in the 16th century, with special attention to the treatment of the different documentary typologies and their languages, whose specificities are often overlooked by historians. Roberta Stumpf writes the last and seventh chapter, 'Vices and virtues, money, and the execution of public office in Portuguese domains', presenting a panorama of what was understood as abuse of power and its motivations in that 18th century context, but building a cross-section from which emerges the role of wealth and money in the appointment and prosecution strategies of those in charge of managing public affairs on behalf of His Majesty.

Brasilia, 1st June 2024

Maria Filomena Coelho
Leandro Duarte Rust

# Corruption in the Middle Ages as a research problem

MARIA FILOMENA COELHO[1]

The classic meaning of the word *corruptio* is corrosion, i.e., the result of the inexorable process of decomposition that affects living beings from the moment of their birth. Corrosion affects individual bodies as much as social bodies, and definitions of what corrodes them are the key to identifying actions and behaviours to combat it. Christianity, as the religion of the Roman Empire, is indebted to this perception, which was updated over the centuries by thinkers and rulers, but also by the diverse ways in which the ordinary people understood and disseminated this modular principle of life in society. In the Middle Ages and in the Modern Age, Western Christian kingdoms were repeatedly concerned about corruption, as demonstrated by the profusion of doctrines and legal apparatuses aimed at curbing it. But despite their tireless efforts, the struggle proved to be inglorious.

In this regard, the Contemporary Era aims to inaugurate a "new era". In fact, in this and 'all' other senses of life! Roughly speaking, the solutions to the scourges that affected life in society stemmed from a lack of scientific knowledge about the functioning and "backward" ancestral logics that prevented the progress and modernization needed to reach 'truly' civilized standards. From the second half of the 19th century onwards, the elimination of corruption became the foundation of a modern, developed nation. Measures and procedures were established that would lead to the stage of virtue. However, it was from the second half of the 20th century onwards that the basic principles of impersonality and publicity in the handling of public affairs took on a more defined form, even feeding into a ranking of the most and least corrupt countries, with a direct impact on the prestige of nations and the level of trust that their governments inspire. Financial and commercial transactions, as

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[1] Professor of Medieval History at Universidade de Brasília (UnB), Brazil.

well as the ability to be a major player on international stages, can depend on the levels of corruption measured in each country. There are many different methodologies for measuring international standing, but there is a particularly important one based on citizens' perceptions of the public environment and corruption practices.[2]

The means of eliminating or at least drastically reducing corruption is instituted by the countries that have managed, in their recent history, to defeat the 'monster'. These are states of the so-called "First World", among which the Nordic countries stand out. In the field of corruption studies, Denmark is a success story and has even named the methodology to be adopted by nations wishing to reach the same stage: "a path to Denmark". A country whose history, like the rest of Europe, has seen dramatic levels of corruption over the centuries, had adopted radical measures to eliminate corrupt practices from public life. The state was established based on law, rationality, impersonality, transparency, and control of public officials. Although Denmark has become something of an image for anti-corruption campaigns, it is not the only country to boast of this virtue, sharing with others the rigorist halo that, if not exactly deserved, is at least announced as a goal to be achieved. This is the case of countries with greater economic weight that have not yet 'become Denmark', but which argue that this is the only way to combat corruption on a global scale.[3]

The method is clearly designed to eradicate conducts that harm the common good. Under the Rule of Law, the basic model of First World countries, laws define what corruption is, prevent it from occurring and penalize criminals. Objectively, "corruption" is conceptualized. In other words, the problem is circumscribed so as not to leave room for circumstantial interpretations that weaken the power of the law. Subjectivities have been translated into centuries of personalistic logics that interpreted the abundant anti-corruption laws according to ties, making them ineffective. It became clear that, in addition to well-worded laws, it would be necessary to have a cultural change that would transform people into individuals/citizens whose predominant ties no longer depended on family and religion but would

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[2] Established by Transparency International in 1995, the Corruption Perceptions Index (CPI) evaluates 180 countries and territories and assigns scores on a scale between 0 and 100: transparenciainternacional.org.br. Produced by International Transparency since 1995.

[3] For a critical analysis: KROEZE, R.; VITÓRIA, A.; Geltner, G. (Org.). Introduction. *Anticorruption in History*: From Antiquity to the Modern Era. Oxford: Oxford University Press, 2018, p. 1-20.

place them definitively in the sphere of the nation-state. Only in this way would it be possible to disseminate impersonal logics in the handling of public affairs, which are essential to extinguish embezzlement and misappropriation of funds.

The problem was seen as a misconduct, a moral issue. In fact, since ancient times, corruption and the relevant solutions have been considered in this way. In the pursuit of wealth and power, people lose their sense of the common good and tend to selfishly appropriate, for their own benefit, what should benefit everyone. The remedy stipulates what should not be done and provides for exemplary punishments to discourage those who are tempted to commit crimes against the common good. Approached from this angle, after centuries of experience, the inefficient result is plain to see. The queue of convicts is endless, linking the past to the present, with inexorable continuity into the future.

However, there is another way of looking at it: politically. Although the accusations fall on individual behavior, history - including the most recent times - shows that these are moves in the political game, aimed at undermining certain interests and groups in control of public affairs. The cases are almost endless and well known, although they do not really take centre stage in the arguments of public opinion, which, in the end, prefers to aim its artillery at the individual weaknesses of the accused who could not resist the temptation to make a profit.

But the political field also offers another perspective for studying the problem, which is usually hidden, linked to the meaning of the model that shapes society. In academic terms, this is the field of political philosophy, or what Pierre Rosanvallon called "the political".[4] This will be one of the main aspects we will try to explore, set in the Middle Ages.

## I.

The Middle Ages are an interesting historical period in which to understand the complexity of the problem of corruption. First, because it is a time that common sense — and even historians — consider to be corrupt by nature. As Leandro Rust has pointed out, researching the topic in this chronology would constitute a kind of 'non-theme', since corruption, by being part of the culture itself, would create a discursive

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[4] ROSANVALLON, Pierre. *Por uma história do político*. São Paulo: Alameda, 2010.

sustaining effect that would make analysis impossible.[5]

The most eloquent evidence would lie in the way medieval societies mixed the public and the private, resulting in a lack of definition. The logic of power and government of public affairs was based on personalist principles, strongly dynamized by feudalism.[6] The characteristics of social relations, guided by bonds of loyalty and vassalage, which ran vertically and horizontally along the social pyramid, would make it impossible to conceive of a model that separated the public from the private. The very definition of "fiefdom" as a benefit, in exchange for which the beneficiary must provide a service to the benefactor, would help to cement the confusion between the two spheres. The benefits granted by the powerful to those of a lower social and/or political level often have implications for the management of public life, linked to justice and administration. The gifts distributed, in the form of offices, turn those who receive them into "obligees", feeding an endless dynamic chain of personal ties. A gift is given to those who deserve it, because they have proven themselves capable of providing a service to the lord.

This panorama was aggravated by the fact that what the lords distributed to their vassals would be the result of the misappropriation of wealth and instances of power that were once public. These were institutional capacities (legal and fiscal) inherited from the Roman Empire, which in the High Middle Ages would end up being exercised by the Christian aristocracy (secular and ecclesiastical). In historiographical terms, the context is often referred to as the pulverization of state power, a centrifugal dynamic that over the centuries would produce scenarios classified as feudal political anarchy. An era in which the public good was corrupted. The power exercised by the Christian aristocracy, at local and regional level, as the ability to organize collective life, the production and distribution of wealth, and to "say justice" (*iusdicere*), is hardly recognized in historiography as a manifestation of the "public". For this period, royalty and the high clergy (secular and regular) are recognized as surviving

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[5] RUST, Leandro. A "corrupção" na escrita da História Medieval: os desafios de um efeito de sustentação discursiva. *História da Historiografia: International Journal of Theory and History of Historiography*, Ouro Preto, v. 15, n. 38, p. 201–230, 2022.

[6] See, for example, the following excerpt, from whose conclusions we intend to depart in this article: "…what we in modern times would regard as corruption and abuse was in fact embedded in the nature of medieval society itself. Society was in turn subject to the relations created through or developed within "bastard feudalism", the malign effects of which were supposedly manifested in perversion of justice, the parading of retainers and co-operation in disputes. […] The failure of providing a panacea suggests a profound limitation of perspectives, but also emphasizes the reality of medieval society both for contemporaries and for historians: *bastard feudalism* was society and it was impossible to stand outside it". MUSSON, Anthony (Ed.). *Crime, law and society in the Middle Ages*. Manchester/New York: Manchester University Press, 2009, p. 250-251.

institutions of public power, even though their ability to govern up to what would be required within these standards is always evaluated negatively. Feudal traits were also evident in the way secular and ecclesiastical political leaders governed. From this perspective, emperors, kings, dukes, counts, popes, bishops and abbots exercised power through personalistic values, based on the logic of service and benefit, whose distributed gifts originated from "public good".

## II.

Today, studies on corruption are a huge field, which is the size of the problem. Corruption theory brings together researchers from quite different areas of knowledge, among which historians play a key role. History of the contemporary period and the so-called History of the Present concentrates most of the research, but there is also a strong interest in pre-modern times.

The protagonism of the Modern Age stands out, especially in the colonial world. The bibliographic production on corruption on Hispanic America is notorious, with prominent authors such as Francisco Andújar and Pilar Ponce Leiva.[7] On the same period, but concerning Portuguese America, Adriana Romeiro and Roberta Stumpf are important references.[8] The plethora of documents, both quantitative and qualitative terms, has allowed research groups to provide a complex picture, enabling us to understand the challenge of identifying and explaining the interconnections that shaped corruption in certain times and spaces of the past.

In terms of academic visibility, studies on corruption in antiquity are restricted

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[7] The work of both authors is extensive, but we only quote: ANDÚJAR CASTILLLO, Francisco**.** El sonido del dinero. Monarquía, ejército y venalidad en la España del siglo XVIII. Madrid: Marcial Pons, 2004; ANDÚJAR CASTILLO, F. La quiebra de la justicia distributiva en el siglo XVII: venalidad y patronazgo. In: PARDO MOLERO, J; VERDET MARTÍNEZ, N.; ANDRÉS ROBRES, F. (Coord.). *¿Al servicio de quién?* Poder, instituciones y familia en la Monarquía de España. Granada: Comares Historia, 2022, p. 17-32;   ANDÚJAR CASTILLO, F.. Historiando la corrupción: propuestas de metodología de investigación". In: PARDO MOLERO, J.F.;RUIZ IBÁÑEZ, JJ. (eds.) *Los mundos ibéricos como horizonte metodológico.* Homenaje a Isabel Aguirre Landa. Valencia: Ed. Tirant lo Blanch, 2021, p. 289-310. PONCE LEIVA, P. Acusaciones de corrupción y prácticas sociales infamantes. Quince años en la vida de Agustín Mesa y Ayala (1670-1685), contador de la Real Hacienda de Quito. *Revista Complutense de Historia de América* 43, 2017, p.49-74; PONCE LEIVA, P. Percepciones sobre la corrupción en la Monarquía Hispánica. In: PONCE LEIVA, P.; ANDÚJAR CASTILLO, F. (Eds.). *Mérito, venalidad y corrupción en España y América, siglos XVII y XVIII*. Valencia: Albatros, 2016, p. 193-212.

[8] ROMEIRO, A.. A corrupção na Época Moderna. Conceitos e desafios metodológicos. *Tempo. Revista do Departamento de História da UFF,* v. 21, p. 1-30, 2015. ROMEIRO, A.. Corrupção e poder no Brasil - uma história, séculos XVI a XVIII. Belo Horizonte: Autêntica, 2017. STUMPF, Roberta. O ideal de bom governo e os instrumentos de controle do oficialato português. Goiás, segunda metade do século XVIII. In: GAUDIN, G.; STUMPF, R. (Dir.). *Las distancias en el gobierno de los impérios ibéricos.* Concepciones, experiencias y vínculos. Madrid: Casa de Velázquez, 2022, p.167-185. STUMPF, Roberta. Formas de venalidade de ofícios na monarquia portuguesa do século XVIII. In: STUMPF R.; CHATURVEDULA, N. (orgs). *Cargos e ofícios nas monarquias ibéricas*: provimento, controlo e venalidade (séculos XVII-XVIII). Lisboa, CHAM, 2012, p. 279-298.

almost exclusively to the Roman Empire, with special emphasis on the phenomenon of clientelism. Although there are researchers dedicated to analysing corruption in Athens and Sparta, the results do not go far enough to undermine Rome's prominence in the field.[9]

Regarding the Middle Ages, there have been very few initiatives, due to the perception that it was a naturally corrupt period. However, occasionally there are research papers on corruption, published in the form of scientific articles, but they are clearly not among the central concerns of their authors.[10]

Even though these are quite different historical periods, there are some common threads between the analyses that are worth highlighting. The first undoes the *a priori* distinction between public and private that would have been characteristic of pre-modern times. The profusion of anti-corruption laws in any of these periods shows that historical agents identified the existence of a public sphere that needed to be protected from private appropriation. However, it stands out that the laws were repeatedly broken by all those involved, configuring a lax legal scenario. Secondly, the case studies show that there was no conceptual precision regarding corruption in pre-modern times, generating permanent ambiguity that lent itself to political games. In other words, accusations of corruption were common weapons in the hands of powerful groups and individuals to target political enemies. The struggle for power, especially about the control and distribution of common wealth, used accusations of corruption to eliminate competition, leaving the way clear for the victors. Thus, the same action could be - or not - corruption, depending on the convenience of those involved. A royal official in the colony who used money from His Majesty's Treasury to give a banquet could be considered corrupt or a promoter of royalty and, consequently, a criminal or, on the contrary, a promoter of the common good.

These conclusions, anchored in a myriad of similar cases, end up giving shape to another, more comprehensive one, which identifies culture as the key to explanation. Because these were "still" pre-modern societies, with little capacity to understand the correct logic of how institutions work, their public agents had conceptions and

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[9] FAVERSANI, Fábio. A corrupção dos antigos e a nossa: apontamentos para o estudo da corrupção romana. *Revista Phoinix*. Universidade Federal do Rio de Janeiro. Available at: https://revistas.ufrj.br/index.php/phoinix/article/view/32327. Accessed: May 5, 2021.

[10] In order to look at corruption at that time from another perspective, the *De Corruptione* research group was created, based at the University of Brasilia, which brings together historians at different stages of their academic life, with results that have been published at: www.decorruptione.com.

behaviours that were not adequate. However, it should be emphasized that, unlike more traditional historiographical analyses with an institutionalist bias, which tend to evaluate the performance of these agents in an anachronistic way, there is currently a culturalist tendency, which tends to justify what is identified as the political culture of those societies.[11] In this sense, the researcher should be able to understand different logics - specific of the "other" - through which "corruption" functions as a social mortar. Therefore, instead of being a problem, it would be a positive and indispensable factor for social cohesion.[12]

This approach, however, fails to explain why, at certain times, waves of accusations of corruption erupt in these societies. If the phenomenon were always of a "beneficial nature", the accusations and the drafting of anti-corruption laws would make no sense. The research challenge lies in discovering what "cracks up" so that society identifies the existence of corruption which, regardless of the historical period, is always seen as an evil to be extirpated. In methodological terms, it will be necessary to consider the cultural "nature" of personal ties as part of the political architecture, subject, like any principle, to having its interpretation and accomplishment disputed. The scenarios to be analysed must be broad. Pursuing only the legislative track does not seem to be enough. Looking for answers only in what anti-corruption laws circumscribe as such leaves out various areas of norms and social relations that also constituted — and still constitute today — consensuses which, once neglected by agents, make corruption emerge.

The relevance that the analysis of laws has assumed in the study of corruption is undoubtedly due to the breadth of the institutionalist references of the 19th century, to which is added the weight that the Rule of Law model has achieved today. But reducing the selection of documents to this typology runs the risk of only following the path that the lawmakers want us to follow. A methodological choice guided by an

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[11] However, the culturalist approach in corruption studies can also serve to negatively evaluate the societies analyzed, for example: "In a society where gifts and favours were an expected and accepted feature of social transactions, the receiving of gifts, for instance, may simply have been regarded as one of the entitlements of office with little attention paid to the motives of the giver. Moreoever, there can be less of a clear demarcation of official conduct when lines of appropriate behaviour were hazy even to contemporaries. There was nevertheless a perceived difference between oiling the wheels and setting them upon a different track. To an extent therefore what we in modern times would regard as corruption and abuse was in fact embedded in the nature of medieval society itself. Society was in turn subject to the relationships created through or developed within 'bastard feudalism', he malings effects of which were supposedly manifested in perversion of justice, the parading of retainers and co-operation in disputes." MUSSON, Anthony; POWELL, Edward. *Crime, law, and society in the Latter Middle Ages*. Manchester/New York: Palgrave Macmillan, 2009, p. 250.

[12] It should be noted that this approach also affects societies that are not part of the First World, especially Latin American, African and some Asian societies.

anachronistic vision, seduced by the current monopolistic prestige of state laws, without realizing that the prescriptive character of these devices circumscribes the possibilities and the field of what is classified as corruption. Nowadays, corruption is only what the anti-corruption laws dictate. However, considering laws in times before the present requires understanding that they formed part of a broader normative complex, which included, for example, the divine and ecclesiastical forums, and whose dynamics in formal terms will always be relational. Laws are part of formal law, as are customs and other norms that are not always easy to map, but which, depending on the circumstances, could be preponderant.

This does not mean abandoning the study of laws in favour of other types of documents. The often doctrinaire and casuistic nature of legal codes makes it possible, for example in the Middle Ages, to see what kind of arguments legislators used to identify and define corruption. Dense description can be a good strategy for highlighting the different referential repositories used, as well as the interweaving of moral and ethical logics and arguments. The challenge, however, lies in not giving the work done at this stage, which will inevitably lead to conclusions that reinforce a panorama crossed by casuist and the elastic and ambiguous way in which agents react to corruption.

In fact, the specific case is always ambiguous. It is not difficult to see in each plot the conscious way in which the historical actor's resort to ambiguity as a way of presenting their case. This is not, therefore, a conceptual incapacity. The dissolution of ambiguity depends on how the socially competent authorities process the specific case. As we know, there are many possibilities, as well as the instances authorized to operate the process. Thus, analysing circumstances requires the researcher to also perceive the conscious recourse to ambiguity, avoiding conclusions that always attest to laxity or legal ineptitude.

## III.

Corruption is a kind of word which houses a semantic field that, since ancient times, has served as a device to modulate the practices of appropriation and distribution of wealth considered common to all. Obviously, the negative charge attributed to the word, once formulated, evokes and promotes its opposite as virtue. Around the ability to classify corruption lies the main subject of human societies: the

management of wealth, the government of public affairs (*res publica*). By accusing groups, individuals and acts as corrupt, they are saying that they have misappropriated the wealth that belongs to everyone. But at the same time, it reinforces the legitimacy of those whose appropriation is virtuous and promotes the common good.

Pre-modern Western societies were hierarchical and elitist models, based on the privileges of the higher orders. In the Middle Ages, this conception was presented as nature, sacralised by Christianity, configuring an ideology that legitimized the fact that an aristocracy appropriated wealth and promoted its distribution through strategies that guaranteed the hegemony of its power. The corporative model, inherited from Antiquity and strongly Christianized in the Middle Ages, will be widely disseminated and its functionalist logics easily understood at all social levels. Each person and human group are born with a function that is essential to the existence of the social body and which cannot be altered or harmed, otherwise the collective will be negatively affected. Just as in the biological body, the functions of the parts do not have the same weight. Some are more important than others, and some are even considered essential for the life of the body. The head is the fundamental part, responsible for governing the body, assisted by the upper limbs. The size of the responsibility requires that this *optima pars* be rewarded in accordance with the function assigned to it, so that it can fulfil it correctly. From this perspective, it was justified that a small part of society should have the duty to appropriate wealth to redistribute it according to the model. The elitist characteristics, in turn, were justified in view of the meaning of the Christian model: to ensure that society was correctly guided on the path to Salvation. The importance of the mission required knowledge and ability, of which only the higher orders (secular and ecclesiastical) were custodians. Therefore, the appropriation of wealth was seen not only as a legitimate possibility, but as a duty, and its distribution, by criteria that guaranteed the reproduction of the model itself, was presented as justice - "to each his own".[13]

The seizure of wealth according to these criteria was a virtuous action, as it was interpreted as necessary for the fulfilment of the common good. The salvation of Christendom required wisdom inherited from ancestors or acquired through formal aristocratic education. The repository of knowledge was the monopoly of the lineages

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[13] *Suum cuique tribuere.* Digest (1.1.10.1 Ulpiano).

and their members — secular and ecclesiastical — embodied and defined the common good. As an essentialist principle, therefore, any action carried out by the Christian aristocracy would be for the good of society, even if it benefitted particular people or groups to the detriment of the whole. The key point was to promote to the category of general interest what — we know — was a private interest. It should therefore be emphasized that, according to the model, the "private/particular" does not erode the public. The method for operating such a shift lay in the ability to build networks of relationships whose interweaving shaped the "public space". It was these social relationships that shaped "the public".[14]

However, the method that guaranteed a virtuous quality to the action was also the gateway to corruption, considering the distortion of procedures. From being promoters and benefactors of the "public", the virtuous could become its corrupters. For their contemporaries, it was precisely through this loophole that accusations of corruption infiltrated and wreaked damage on the opposing political camp. The scenarios presented by the documentary evidence are circumstantial political disputes accompanied by speeches accusing corruption of destroying the common good. But on closer scrutiny, it is possible to see that the accusation is a symptom of a disturbance in a certain "order". Something has shaken the norms that governed social relations and managed the "public". A consensus around certain norms of conduct has been broken, requiring rearrangements and punishments. From this perspective, "the public" is a relational category whose existence depends on  standardisation. In the case of an aristocratically conceived society, the standardization/configuration of the public will necessarily be elitist and exclusionary, subjecting the bundle of relationships to permanent political tension. It is also interesting to note that it is at times of increased or scarce resources that accusations of corruption become more recurrent.

The administration of resources also requires the management of social relations, through which goods are circulated and handled. This is the meaning of the word economy (*oikonomia*): management of the household. This was understood as the universe of the social relations of the group, the kinship, the lineage. The means of accessing and managing wealth requires integrating into an order external to the

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[14] To understand how some medievalists dialog with Habermas' idea of the "public sphere" and "public space", see: OFFENSTADT, Nicolas; BOUCHERON, Patrick. *L'espace public au Moyen Âge*. Débats au tour de Jürgen Habermas. Paris: PUF, 2011.

group and, at the same time, creating an internal one, with often unpredictable results in terms of power. In both the public and domestic spheres, crises erupt when the order of the political game is disrespected. For researchers, it is usually the results of these clashes that are recorded in historical documents, in the form of discourses that frame the actions to be condemned. They are politicized by means of an intellectual, legal deposit, etc., which the accusers use.

The discourses are based on another kind of order, which comes from the political architecture, in other words, from what Pierre Rosanvallon calls "the political".[15]  The model language is appropriated by the political game that makes the accusations robust and scandalous. Undoubtedly, allegations of corruption need the "voice of the people" to thrive, and this particularity provides a promising framework for research into the problem.[16]

## IV.

One of the major challenges facing the researcher is that the word "corruption" does not appear frequently in the documents. There is therefore a lexical problem to solve. Positive and negative words adjectivize conduct, and the presence of gifts (of any kind) as a tool for operating social relations can be a good clue to follow. The way in which the positive is transformed into the negative — and vice versa — and the power to interpret and classify an objective action are also interesting keys. The fact that one historical actor does not classify a certain action as corruption does not mean that another could not. Isn't that what allowing us to identify the political "move", even as omission/silence? And from an analytical perspective to what extent would we be able to identify, in terms of the past, when an act with corrupt characteristics was not classified as such?

Although it is no easy task to deal with a vast lexicon, there are a few words to pay special attention to. The main one is injustice. Its opposite, justice, is the foundation of power, which legitimizes the rule of the political head over the social body, whether

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[15] "In speaking substantively of the political, I thus qualify both a mode of existence of common life and a form of collective action that is implicitly distinguished from the exercise of politics. To refer to the political and not to politics is to speak of the power of law, of the state and the nation, of equality and justice, of identity and difference, of citizenship and civility; in short of everything that constitutes the polis beyond the immediate field of party competition for the exercise of power, of everyday government action and the ordinary life of institutions". ROSANVALLON, *Por uma história do politico...*, p. 73.

[16] See: CONNELL, Charles. *Popular opinion in the Middle Ages*. Channeling public ideas and attitudes. Berlin/ Boston: De Gruyter, 2016.

secular or ecclesiastical. Emperors, kings, popes, bishops, and lords are primarily judges. It is up to them to say and do justice to their subjects. From this commutative and distributive capacity, which feeds the social networks led by the political head, public power is born. Thus, injustice corrupts the public good in a broad sense, but in the same context, and remarkably close to the current meaning of corruption, the word is clearly used to refer to the act of bribing judges, as can be seen in the "Ordenações Afonsinas" (15th century):

> It does not seem to be a reasonable or honest thing for the Justices of our courts, and any other of our officials, who are entrusted by Us with judging or discharging anything - and for this reason they receive our maintenance, so that they can reasonably maintain their states, and among the good are more honourable than they would be if they did not have the said offices from Us — to **receive bribes [*peitas*] from the parties**, who expect discharges from them, and to give in return Sentences, and the discharges that the parties desire, **corrupting their offices**, and perverting Justice. For this reason, our Royal State will appear guilty before God, in disgrace, and even disgraced before the world, and will receive great harm as a result, something which every Prince should always greatly fear. For the said Royal Dignity has been received from God, and as his Vicar-Lieutenant he governs it, and the principle of it is based on the good governance of Justice, and he must use all his power so that it may be preserved by him.[17]

In the footsteps of the classical definition, which understood the corruption of public affairs as the private appropriation of social wealth, the words selfishness and avarice take centre stage. From a Christian perspective, such behaviours are harshly typified and penalized as deadly sins.

In any case, there is a medieval historical aspect that should not go unnoticed: the much broader and clearly stated nature of what corroded society and power, and to which the word "corruption" could be applied. Here is an excerpt from Rui de Pina's chronicle, written in Portugal at the end of the 15th century, in which King João II is warned about the error of receiving the Jews expelled from Spain in exchange for money:

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[17] "Não parece ser coisa razoável e honesta que os Desembargadores da nossa justiça, e quaisquer outros nossos oficiais, encarregados por Nós de julgar ou desembargar alguma coisa - e por isso recebem nosso mantimento, para que razoavelmente possam manter seus estados, e entre os bons são mais honrados do que seriam se de Nós não tivessem os ditos ofícios - **receberem peitas das partes**, que deles esperam haver desembargos, e darem em troca Sentenças, e os desembargos que as partes desejam, **corrompendo seus ofícios**, e pervertendo a Justiça. Por essa razão o nosso Real Estado diante de Deus parecerá culpado, em desmerecimento, e ainda diante do Mundo deslouvado, e receberá por isso grande prejuízo, coisa que todo Príncipe deve sempre muito recear. Pois a dita Real Dignidade recebeu de Deus, e como seu Vigário Lugar-tenente a governa, e o princípio dela se baseia na boa governança de Justiça, devendo empregar todo o seu poder para que seja por ele conservada". *ORDENAÇÕES do Senhor Rey Dom Affonso V (Ordenações Afonsinas)*. Livro III. Título CXXVIII. Real Imprensa da Universidade de Coimbra, Coimbra, 1792 (fac-simile pela Fundação Calouste Gulbenkian). Available at: http://www.ci.uc.pt/ihti/proj/afonsinas/pagini.htm. Accessed: June 25, 2023.

And then some in whom there was clear judgment, and some **uncorrupted** passion, despising flattery, or fear, which guided others, substantially contradicted him, saying: "Sir, two excellent, and very praised things have always been heard in these Kingdoms of Portugal, because the Kings, and natives of them, in all the World over all, were honoured, and esteemed: The first was the firm loyalty of the Portuguese to their King; and the second, the complete faith and true love that their Kings, as very Catholic, always had and kept for God and his holy faith. The first, either through the faults of others, or through your own sins, has already been **corrupted** in your days, and in the time of your resignation through disloyalty; […] because you do not enjoy the tranquillity, and security that your predecessors always enjoyed, you must report it more to misfortune, than to your own good fortune. […] The second, which is the Christian faith, and which already remains, you should not want money, which is a vituperated greed, to extinguish and **corrupt** you first. And since in the Kingdoms of Castile and Aragon your countrymen, not having such an ancient privilege of this cleanliness, the excellent Kings of them as Catholic Christians, after the natural upbringing that these infidels and heretics had in their Kingdoms, and despising such rich services, tributes, and servitude that they owed them, and always did, only by good example, and great purity of the Faith, as to enemies banish them, and cast them out of their lands; Your reason, honesty and conscience do not allow you to tie them up and gather them into your own, which contradicts everything else. And we do not know with what excuse, or just title, you can call yourselves Defender of the Faith, making of your Realms, and safe port to such enemies of it. […] You know this is already such a certain disservice of yours as the other service of the Conquest of the Moors, it is very doubtful, being with such a torpid offer.[18]

The passage is incredibly significant in that the verb corrupt appears three times to condemn a situation in which money would corrupt the highest public authority in the kingdom: the monarch himself. If, on the one hand, the classification of corruption remains linked to the idea of corrosion, which, by affecting reason and faith, puts the "common good" at risk, on the other hand, the "so torpid an offer" extended to the

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[18] "E porem algũs em que avia juizo limpo, e d'algũa paixam **nom corruto**, desprezando lisonjaria, ou temor, que a outros guiavam, substancialmente o contradisseram, dizendo: "Senhor, duas excelentes, e muy louvadas cousas ouve sempre nestes Regnos de Portugal, porque os Reys, e naturaes delles, em todo o Mundo sobre todos, foram honrados, e estimados: A primeira foy hũa firme lealdade dos Portugueses pera seu Rey; e a segunda, inteira fe, e verdadeiro amor, que os Reys delles, como muy Catholicos, a Deos, e a sua sancta Fe sempre teveram, e guardaram. A primeira, ou por culpas alheas, ou por pecados proprios vossos, ja em vossos dias, e no tempo de vosso resignado por deslealdades primeiramente se **corrompeu**; […] por nom gozardes da tranquilidade, e segurança que vossos antecessores sempre possoiram, mais o devees reportar a desaventura, que bem-aventurança vossa. […] A segunda que he a Fe Christãa, e que ja soo fica, nom devees querer, que por dinheiro, em que parece, que entra vituperada cobyça, se apague, e **corrompa** primeiro em vos. E pois nos Regnos de Castella, e Aragam vossos Comarquãos, nom teendo tam antigo privilegio desta limpeza, os excelentes Reys delles como Catolicos Christãos, posposta a natural criaçam que estes infiees, e hereges em seus Regnos teveram, e desprezando tam ricos serviços, tributos, e servidam que lhes deviam, e sempre fezeram, soo por bõo exemplo, e grande pureza da Fe, como a imiigos os desterrar, e lançam de suas terras; a razam, honestidade, nem conciencia vossa nom consente, que vos os emparees, e recolhaaes nas vossas, a que em tudo mais contradiz. E nom sabemos com que escusa, e justo titolo, vos poderees chamar Defensor da Fe, fazendo de vossos Regnos Couto, e seguro porto aos tam imiigos della. […] Sabe este he ja tam certo desserviço seu como ho outro serviço da Conquista dos Mouros, he muy duvidoso, seendo principalmente com oferta tam torpe". PINA, Ruy de. *Crónica de El-Rei D. João II*. Coimbra: Atlântida, 1950, p. 179, emphasis mine.

king, mediated by money,[19] puts us before a situation in which the ruler allows himself to be dragged down by "greed". It seems clear that corruption is linked to actions that prevent the common good from being realized, of which the receipt of "undue" advantages by individuals who have public responsibilities is just one possibility. Therefore, the accusation makes clear the breadth of the semantic field of corruption, because the actions that can endanger the Christian model of society go far beyond the active or passive corruption of public officials, as it is understood today.

This scope requires reflection on the very definition of "public" in historical terms. The examples we have just given concern monarchical power, a dimension easily identified as "public", due to some of the characteristics attributed to it that are close to those of the contemporary state. However, as already mentioned, if we consider "the public" from an aristocratic perspective and from the logic of legal pluralism, which underpinned the political model of Western Christianity, it will be necessary to broaden this public sphere. The church, especially in its higher social dimension, as the ecclesiastical aristocracy, is also the protagonist par excellence of public power. And as far as corruption is concerned, studying the way in which the institution has historically framed and dealt with issues affecting the appropriation and distribution of its wealth offers important results.

From exceedingly early on, the church dealt with the problem, identifying it as "simony", but also using other words, such as "usurpation", "embezzlement", "dilapidation".[20] Pope Gregory the Great (6th century) had already written in detail about simony as a crime/sin/heresy that affected not only the church's property, but the collective body of Christians, with serious implications for everyone's salvation.[21] In the following centuries, the problem continued to be part of debates in both ecclesiastical and secular circles, highlighting the degree to which the two spheres were intertwined. Wealth and the "good" of the church were a matter for the aristocracy, which could not disregard its secular and ecclesiastical character. The disputes over the church's material and symbolic wealth involved confrontational

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[19] However, the presence of money in public life does not necessarily presuppose the existence of corruption and may even be considered desirable for the realization of the common good. See: ZELIZER, Viviana A. The Social Meaning of Money: "Special Monies". *The American Journal of Sociology*, Vol. 95, No. 2 (Sep. 1989), p. 342-377.

[20] In the Frankish (Merovingian and Carolingian eras) and Visigothic kingdoms, it is possible to follow this intense complaint through the Council Acts and their respective canons.

[21] WEST, Charles. Competing for the Holy Spirit: Humbert of Moyenmoutier and the question of simony. In: DEPREUX, Ph.; BOUGARD, F. ; LE JAN, R. (ed.). *Compétition et Sacré au Haut Moyen Âge*: entre méditation et exclusion. Turnhout: Brepols, 2015, p. 347-360; p. 357.

groups, socially made up of seculars and ecclesiastics on both sides. The legitimacy and virtue claimed by one of the parties was necessarily opposed through the simoniac classification attributed to the other. The 11th century, in this sense, is full of examples, involving the dispute over the papacy, as well as the right to investiture of bishops and the appointment of other ecclesiastical dignities. The cases have been extensively studied by historiography, but it is interesting to follow the renewal of interpretations, previously more linked to institutionalist visions and now more attentive to the complexity of the social relationships that shaped the political scenarios and the plasticity of the discourses mobilized in each situation. The atmosphere of "moral panic"[22] that can be observed in the documentation of this period, in relation to simony, allows to explore the theme in various directions. One of the heralds of the "disgrace" that was befalling the church was Humberto da Silva Cândida, who, with his famous *Libri Tres Adversus Simoniacos*, accused various practices of powerful Christians in relation to church business, including donations. This is an important aspect for the study of corruption, especially given the importance that the gift economy acquired in pre-modern societies. The interpretation that the actors involved in these exchange relationships attributed to the act, as well as that of those evaluating them from the outside, were the fuel for the main controversies that agitated the period, and which turned into dramatic political disputes. Thus, in the words of Charles West,

> Describing these men's motives with a vocabulary of competition that included words such as *ambitio, supplantatio* and even *supereminare*, Humbert suggested that the gifts being exchanged were actually motivated by commercial interests, that people were being appointed not for the necessity of the church but because they had given or had promised to give money, and he drew on an imagery of merchants (*negotiatores*) to make the point clear. (…) As a consequence, viewed through Humbert's eyes, solidarity-building gift-exchange is transmuted into potlatch, and flat-rate transactions become auctions; indeed, bishoprics themselves are more or less described as being acquired through competitive tendering.[23]

The practices denounced as illicit — and even heretical — sought to target groups with projection within the church itself, for whom the exchange of gifts was certainly within traditional standards, the social norms in force. But the accusation, if

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[22] WEST, Charles. Competing for the Holy Spirit…, p. 356.
[23] WEST, Charles. Competing for the Holy Spirit…, p. 354-355.

successful, would put them outside the church guild. For Leandro Rust, "because they ascended to the episcopate for a price paid in money or favours, simoniacs are 'external mediators' of entirely secular negotiations; whoever sets a price for entry into the episcopal office not only sells an ecclesiastical good, but the Christian people themselves to the Devil".[24] Humberto da Silva Cândida thus operates an effective shift in political terms. Simony functions here as a powerful element that reveals something that is hidden, which severely affects the public function of the church. For him, the one who buys and sells is just as sinful as the one who, from the heights of ecclesiastical authority, defends the "baleful" consequences of the practice. The latter is represented in the book by the character "Corruptor". Leandro Rust believes he is Pedro Damião.

> The name corruptor was not just a nickname for Damian, but "the engine of the process by which the object of thought was thought[25] [in "Three Books"]": the corruption of the Church, of which simony was an emblem. This interpretation explains why this name appears as the beginning of Humberto's work, since it was the formal condition of an effect of meaning whose cause was based on a relationship that pre-existed the text: a recent and significant change in the institutional distribution of apostolic power or, in the light of the experience accumulated by a cardinal under Leo IX, the corruption of the papal government. [...] Far from being ancillary or dispensable, the figure of the corrupter meant that Silva Candida's response to the simoniacs, which had already been scrutinized by historians as a theological and *canonical* matter, was decisively political for his contemporaries within the Papacy. [26]

The interrelationship between the choice of the word "corruptor" to classify an agent and the political consequences it is intended to provoke is notorious and opens promising methodological possibilities for historical research. At the same time, in addition to the political game involving the dispute for power, the very construction of the discourse required all those involved - author and readers - to have knowledge of the principles defended, as well as the political scenario.

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[24] RUST, Leandro. *Homo Corruptus*: por uma história política de *Libri Tres Adversus Simoniacos* (c. 1058). *Antíteses*, Londrina, v.15, n. 29, p. 098-127, jan-jul. 2022, p.103-104.

[25] Leandro Rust draws on PÊCHEUX, Michel. *Semântica e discurso*. Campinas: Editora Unicamp, 2009, p. 93.

[26] "O nome corruptor não era apenas uma alcunha para Damião, mas "o motor do processo pelo qual se pensava [em "Três Livros"] o objeto do pensamento": a corrupção da Igreja, da qual a simonia era um emblema. Esta interpretação explica por que tal nome figura como o começo da obra de Humberto, pois era a condição formal de um efeito de sentido cuja causa se assentava em uma relação pré-existente ao texto: uma recente e expressiva alteração na distribuição institucional do poder apostólico ou, à luz da experiência acumulada por um cardeal de Leão IX, a corrupção do governo papal. [...] Longe de ser acessória ou dispensável, a figura do corruptor fez com que a resposta de Silva Cândida aos simoníacos, já tão vasculhada por historiadores e historiadoras como matéria teológica e canônica, fosse decisivamente política para seus contemporâneos no interior do Papado". RUST, *Homo Corruptus*..., p. 114.

Another aspect of the accusations of simony that is important for studies on corruption is "the quality of the money".[27] In principle, as Leandro Rust points out, scholars tend to expect that, in documentary records, the "destination of the money" is a formula for cleaning up a sinful/criminal origin by applying it to virtuous causes. However, depending on the political context, this was not always possible, as was shown in the case of the memoirs that were produced about Benedict IX -—known as the most corrupt pope in history. In this case, the fact that he used the money he received from the Roman patriciate to repair churches was not enough to "cleanse" this wealth of the sin of simony, according to the versions produced by foranic groups that sought to dethrone the old lineages from St. Peter. The trajectory of Benedict IX, who was pontiff three times, is extremely complex and full of political "moves", in which accusations of corruption play a fundamental role. It is a context that, as Leandro Rust has shown, provides plenty of material for understanding the intricate layers that make up the political conceptions and scenarios from which accusations of corruption in the Church emerge. However, as the author points out, more than mere accounting money, it is about power over the "set of rules" that operate (material and symbolic) wealth - in this case, the papacy. [28]

It therefore seems very promising to study corruption through a semantic field, based on identifying the meanings and modulations that the problem acquires in different socio-historical contexts. The relationship between signs and what they designate is a useful methodological key offered by linguistics. Similarly, syntax and pragmatics are interesting tools. The former is a methodology that reveals the relationship between signs, whose varied combinations can reveal important political "moves", due to the possibility of changing the meaning of words by combining them in diverse ways. The second makes it possible to understand the relationship between signs and their users, taking the researcher back to the heart of what should be the core of the construction of the object of study: the bundles of social relationships that are presented in documentary records, as a shared language, from which it is possible

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[27] The monetary aspect often appears as a protagonist in corruption studies, understood as the means by which modernity has managed to make individuals more susceptible to corruption, since the spread of money has led to the fragmentation of old personal ties, now replaced by more circumstantial clientelist practices. This dynamization would have expanded the situations of corruption, which are much more "liquid" and atomized. For a critique of this interpretation, see: ZELIZER, Viviana. The Social Meaning of Money: "Special Monies". The *American Journal of Sociology*, vol. 95, n. 2, 1989, p. 342-377.

[28] RUST, Leandro. *O homem que foi três vezes Papa*. Corrupção e poder na Idade Média. Petrópolis: Editora Vozes, 2023, p. 85-92.

to risk a new "move".[29] When an action is classified as corrupt, it means that it is socially generalizable.

Still within the scope of linguistics, corruption and its lexicon can be considered symptoms of the power relations that dispute control of the signifier, in other words, of statements and their compositions, such as forms. In other words, the meanings and contents are not fixed and offer the elasticity needed to translate the dynamism of social relations. What might previously have seemed to the researcher to be evidence of ambiguity and legal inconsistency is reconfigured as an instrument that, through deviation, exposes social relations. Once again, we emphasize the inappropriateness of reducing the documentary *corpus* to legislation, since corruption is a legally incomplete act that will only be fully constituted by social relations.[30]

In terms of discourse, political metaphors are another important possibility to explore, as they are instruments that operate beliefs.[31] As mentioned, the metaphorical strategies that operate the belief in the necessary superiority of an elite that seizes and redistributes social wealth are obviously of great interest, especially when it is possible to analyze the ways in which they are reaffirmed and transformed. The body is the primordial metaphor, from which others derive, such as corrosion, identified by a myriad of situations and negative actions that affect its functioning.

From a theoretical and methodological point of view, the main challenge lies precisely in this lexical and circumstantial breadth: not every deviation can be considered corruption, at the risk of losing its specificity. Methodologically, it is not easy to face up to the swamp of casuistry that shows conceptual imprecision, a difficulty in applying the laws, a lack of effectiveness on the part of authority. Accusations and cases have been repeated for centuries. In terms of the work plan, it is still necessary to explore the path of identification, by means of a dense description in which we discover lexicon, meanings/signifiers; syntax; pragmatics; semantics (enunciations). But, once again, this task needs to be deeply attentive to the social relations that justify the elaboration of the discourses analysed, as well as to other norms that bound and ordered society. From the historical examples we have

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[29] POCOCK, J. G. A. *Linguagens do ideário político*. São Paulo: EdUSP, 2003.

[30] This perception is fundamental to understanding the extent of multinormativity.

[31] "Metaphors, more than figures of speech, are belief operators that make the premises and meanings of an original semantic field colonize other symbolic domains and thus configure a space in which meanings can be produced". LESSA, Renato. Política: anamnese, amnésia, transfigurações. In: NOVAES, Adauto (Org.). *O esquecimento da política*. Rio de Janeiro: Agir, 2007, p. 108.

presented, both in the context of the monarchy and the church, it should be noted that corruption is not merely the opposite of virtue. Corruption is a singular opposite of virtue, which only acquires this form of corrosion through the denunciation and negative classification that social agents will make of certain behaviours in the political arena, attributed to other social agents. However, from a methodological point of view, we should not overlook the scenario in which the competition for the common good (material and symbolic) takes place, from which the identification and accusation of practices as "corrupt" strategically originate.

## V.

As mentioned above, pre-modern societies produced anti-corruption laws and regulations that distinguished between public and private, although logically the elements that make up the equation were today understood in an unusual way. At the same time, social expectations regarding the effectiveness of the war on corruption were not limited to legislative instruments produced by the monarchy or the church. The very multinormative nature of these societies shows how anachronistic this perception is. Thus, historiographical interpretations that focus solely on the anti-corruption legislative capacities of authorities with a state bias are not very effective, as can be seen in studies that tend to promote centralist perspectives. In other words, approaches that believe that the more power was centralized in the hands of the monarch, the greater the chances of having a bureaucratic apparatus capable of operating the necessary separation between public and private and thus reducing corruption. The problem with this perspective lies, as we have already pointed out, in the anachronistic way in which the strengthening of pre-modern public powers is confused with the monopolistic form of the contemporary state, and the ease with which the state bureaucratic apparatus is associated with a supposed technical neutrality capable of removing private interests from the public sphere by its mere existence. This way of considering the problem means adopting the ideological lens of the contemporary state, which does not serve as an analytical tool for the present, nor for the past.

The political and social model is the key to accessing the problem of corruption. It is based on the logic of appropriation and distribution of common wealth (good) that accusations of corruption materialize. The political game is the visible scene, easily

accessible to scholars, but it hides the backstage, where the fundamentals lie. Without forgetting what is at stake, it will be possible to try to recompose the social norms that form the consensus around the appropriation and distribution of wealth. In terms of the concept, concrete cases allow us to say that it is permanently disputed, which means that corruption does not occur in the abstract. It is about the power to re-signify a concrete act, the power to classify an action.

Regarding to the present day and everything that has been said so far about corruption, it does not seem possible to really understand the problem without considering aspects of the political model and the game of politics. In terms of definition, the classical view of corruption has not disappeared, alternating with the modern one. In fact, it gives density to the modern one. The metaphor of corrosion lives on, allowing us to dramatically condemn individual conduct that undermines the democratic rule of law. Morality therefore remains a determining factor in the problem. At the same time, by confining corruption to legal provisions, the scope for corrupt acts has been reduced under the apparent stability and predictability of the law. What is not provided for by law is not corruption.

The typification of corruption, which focuses on actions involving civil servants and political representatives, takes the focus away from acts that undermine the common good of democratic society, which occur, for example, in the economic and business spheres. It is worth looking at some excerpts from the testimony of a Brazilian banker:

> "The most important thing in law is to know the intricacies of the Gray line between legal and illegal. My job is to expand the margin of legality as much as possible in the service of the bank's interests. [...] Our team has more than twenty hand-picked and well-paid lawyers. [...] I make contacts with judges, politicians and journalists and look after foreign clients. [...] People are bought with cash and deposits in tax havens created for this purpose. We know how to do it right. Without leaving a trace. The city [São Paulo] is all bought, make no mistake, every public tender and every lucrative deal, without exception, is shared out and negotiated. [...] For each type of client and people there is a more convenient way of buying without looking like you are buying. [...] The gold mine of any commercial or investment bank is the Central Bank. Only our people go in there. And the country is run from the Central Bank, which decides everything important in the economy. That is where the Gray area between legality and illegality defines everyone's life. [...] We can do any kind of speculation with the exchange rate, like currency swaps, for example. If it goes wrong, the Central Bank covers the loss. There is no better deal. If it goes wrong, the famous Treasury foots the bill. We are the ones who control the entire economy, and in our favour, Congress does not even have a say in this. [...] Of course, everything is justified as a

mechanism to combat inflation, and not to enrich the rich. For those who see it working from the inside, as in my case, it's kind of funny." [32]

The separation between politics and economics advocated by the capitalist system conveniently prevents society from understanding the real mechanisms of wealth production and redistribution. The economy remains in the shadow of politics, with the latter taking the lead in both good and bad actions. This separation, however, is mere ideology. Both aspects are intrinsic to the architecture of the political model - inseparable - with consequences that feedback on each other since they are opaque to most of society. Once the disguise has been lifted, about corruption, it is possible to glimpse a complex and imprecise panorama, remarkably similar to that attributed to pre-modern societies. Although today we have categorical definitions and prescriptions, judicial and legal procedures offer truly diverse interpretative possibilities, generating a sense of ambiguity and laxity about the application and enforcement of laws.  The fundamental contemporary differences lie on the one hand, in the desire to define the problem more precisely and, on the other, in the drastic reduction of the social environments in which corruption is recognized as occurring. In pre-modern societies, however, what may seem imprecise today was only the elasticity needed to treat behaviour classified as deviant and, regarding the scope of corruption, it was understood that it affected many more aspects of life in society. In any case, despite its breadth, actions, and actors whose characteristics coincide exactly with what our laws classify as corruption were also frequently condemned. But yesterday, as today, when corruption emerges and denouncement thrives, it means that, in terms of the political model and the political game, a social consensus has been broken.

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[32] "O mais importante no Direito é conhecer os meandros da linha cinzenta entre o legal e o ilegal. Meu trabalho é expandir ao máximo a margem da legalidade a serviço dos interesses do banco. [...] Nossa equipe tem mais de vinte advogados escolhidos a dedo e bem pagos. [...] Eu faço os contatos com juízes, políticos e jornalistas e cuido dos clientes estrangeiros. [...] As pessoas são compradas com dinheiro vivo e com depósitos em paraísos fiscais criados para isso. A gente sabe fazer bem feito. Sem deixar rastro. A cidade [São Paulo] é toda comprada, não se iluda, toda licitação pública e todo negócio lucrativo, sem exceção, é repartido e negociado. [...] Para cada tipo de cliente e de gente existe um jeito mais conveniente de comprar sem parecer que está comprando. [...] A mina de ouro de qualquer banco comercial ou de investimento é o Banco Central. Ali só entra gente nossa. E o país é gerido a partir do Banco Central, que decide tudo de importante na economia. É lá que a zona cinzenta entre legalidade e ilegalidade define a vida de todos. Isso não aparece em nenhum jornal. [...] Podemos fazer qualquer tipo de especulação com o câmbio, como nos *swaps* cambiais, por exemplo. Se der errado, o Banco Central cobre o prejuízo. Não existe negócio melhor. Se der errado, o famoso Erário paga a conta. Quem controla toda a economia somos nós e a nosso favor, o Congresso nem apita sobre isso. [...] Claro que tudo é justificado como mecanismo de combate à inflação, e não para enriquecer os ricos. Para quem vê isso funcionar a partir de dentro, como no meu caso, é até engraçado". SOUZA, Jessé. *A classe média no espelho*. Sua história, seus sonhos e ilusões, sua realidade. Rio de Janeiro: Estação Brasil, 2018, p. 170-172.

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# An *Ancien Régime* for the Papal Revolution

'corruption' as a latent philosophy of history

LEANDRO DUARTE RUST[1]

> *'Whoever deals with the past is confronted.*
> *This antinomy will not be resolved here,*
> *and we don't know if it can be solved yet.*
> *But one thing seems certain:*
> *we need to tackle this antinomy.'*
>
> Reinhart Koselleck, 1971.

## I.

A concept is a nautical chart of thought. The moment it opens the mind to the codified representation of vast landscapes of reality, it guides reasoning along certain routes, directing its navigation towards singular expectations of meaning. At once figurative and operative, a concept has information about a set of different phenomena yet forge a specific context for the skill of abstracting the world, situating understanding. Although it serves as a support for many points of reference, relating to different themes—from natural to cultural—a concept usually prompts the mobilization of past experiences, which are thus integrated into a purpose, into the search for an intellectual destiny. Through a concept, *one registers, but also assigns a certain content*.

The history of the Latin Middle Ages has plenty of examples of this. That is, names whose mere usage triggers decisive consequences for understanding. This occurs, for example, with 'freedom'. We historians use this term with a familiarity that goes beyond the frequency and reach it enjoyed in the medieval period. We use 'freedom', 'free', 'freely' and other terms with a semantic flexibility that exceeds previously existing boundaries in the language. A result of mass experiences and uses, our discursive relationship with 'freedom' spreads through writing in many ways, some explicit and intentional, others discreet, instinctive, perchance imperceptible.

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However, when we use the word and its lexical spectrum, we are not only imparting naturalness to our arguments, making them less harsh and hermetic to those who read or hear them. We do more than encourage identification by re-encountering what is already known, creating a specular game between reader and text. We direct the reading to a singular argument. We trace a path to the axiom that intricate religious and legal values presumably converged — in the Middle Ages as well as in the modern world — to form collective bodies focused on political action.[2] This is not an exception. There are numerous familiar-sounding terms of everyday and easy usage among us that direct the thought to specific situations: 'order',[3] 'rationality',[4] 'sensibility',[5] 'religion',[6] 'subject',[7] 'art',[8] 'crises'.[9]

For this chapter, I am arguing for a similar status for "corruption". My hypothesis is that the word corruption has played the role of a *guiding concept* for the writing of medieval history. According to Reinhart Koselleck, a term serves as a guiding concept by playing simultaneously a two-fold role: pinpointing an object relevant to the order of history and inscribing a period of time for that object.[10] In other words, when such

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[2] An attempt to disassociate the *libertas* of the medievals from this notion of 'freedom' of the moderns may also found in: SCHMITT, Jean-Claude. La conquête de la liberté. In: D'ACUNTO, Nicolangelo; FILIPPINI, Elisabeta (Org.). Libertas: secoli X-XIII. Milan: Vita e Pensiero, 2019, p. 3-26. Also : AVON, Dominique. *La Liberté de Conscience*: histoire d'une notion et d'un droit. Rennes: Presses Universitaires de Rennes, 2020.

[3] For example: GROSSI, Paolo. *A Ordem Jurídica Medieval*. São Paulo: Martins Fontes, 2014; LARKINS, Jeremy. *From Hierarchy to Anarchy*: Territory and Politics before Westphalia. New York: Palgrave Macmillan, 2010, p. 53-72; SALVADOR-BELLO, Mercedes. *Isidorean Perceptions of Order*: The Exeter Book Riddles and Medieval Latin Enigmata. Morgantown: West Virginia University Press, 2015.

[4] D'AVRAY, D. L. *Medieval Religious Rationalities*: a Weberian analysis. Cambridge: Cambridge University Press, 2010; LINGUA, Graziano; PEZZANO, Giacomo. Repenser la rationalité économique: de *l'homo oeconomicus* à *l'homo relationalis*. *Noesis*, vol. 20, 2012, p. 283-302 ; VINCENSINI, Jean-Jacques. Civilisation médiévale et discontinuités rationnelles. *Cahiers de Civilisation Médiévale*, vol. 245, 2019, p. 61-76.

[5] BOUCHET, Florence ; KLINGER-DOLLÉ, Anne-Hélène (Dir.). *Penser les Cinq Sens au Moyen Âge*: poétique, esthétique, éthique. Paris: Classiques Garnier, 2015; BROOKS, Ann. *Genealogies of Emotions, Intimacies, and Desire*: theories of changes in Emotional Regimes from Medieval Society to Late Modernity. New York: Routledge, 2016; BOQUET, Damien; NAGY, Piroska. *Medieval Sensibilities*: A History of Emotions in the Middle Ages. Cambridge: Polity Press, 2018.

[6] SCHMITT, Jean-Claude. *Le Corps, les Rites, les Rêves, le Temps* : essais d'anthropologie médiévale. Paris: Gallimard, 2001; GUERREAU, Alain. *El Futuro de un Pasado*: la Edad Media en el siglo XXI. Barcelona: Crítica, 2002; LURDES ROSA, Maria. A religiosidade medieval como campo de trabalho historiográfico: perspetivas recentes. *Revista História das Ideias*, vol. 36, n. 2, 2018, p. 57-81.

[7] DE LIBERA, Alain. *Arqueologia do Sujeito*: nascimento do sujeito. São Paulo: Editora Fap-Unifesp, 2013; HAIDU, Peter. *Sujeito Medieval/Moderno*: texto e governo na Idade Média. São Leopoldo: Editora Unisinos, 2005.

[8] SCHMITT, Jean-Claude. *O Corpo das Imagens*: ensaios sobre a cultura visual na Idade Média. Bauru: EDUSC, 2007; BASCHET, Jérôme. *L' Iconographie Médiévale*. Paris: Gallimard, 2008; KESSLER, Herbert L. *Experiencing Medieval Art*. Toronto: University of Toronto Press, 2019.

[9] FELLER, Laurent. Introducion : Crises et renouvellements des Élites au haut Moyen Âge: mutations ou ajustements des structures ? In : BOUGARD, François ; FELLER, Laurent ; LE JAN, Regine (dir.). *Les Élites au Haut Moyen Âge*: crises et renouvellements. Turnhout: Brepols, 2006. p. 5-30; DE JONG, Mayke. The Empire that was always decaying: the Carolingians (800–888). *Medieval Worlds*: Comparative & Interdisciplinary Studies, vol. 2, 2015, p. 6–25; CÂNDIDO DA SILVA, Marcelo. Crise e fome na Alta Idade Média: o exemplo dos capitulários carolíngios. *Anos 90*, Porto Alegre, v. 24, n. 45, p. 185-207, 2017.

[10] KOSELLECK, Reinhart. *Histórias de Conceitos*. Rio de Janeiro: Contraponto, 2020, p. 63-84.

a notion appears in the text, a decision is made about the meaning of history.[11] When we label certain practices, conditions, or events as 'corruption', we (1) single out a set of events, which then emerge as endowed with common aspects, and (2) invest them with a specific duration, gathering them within the same time frame.[12] As a guiding concept, the idea of corruption "thematizes not only the events that occurred at the empirical level, but primarily the conditions of possible histories".[13] In short, *this term delimits a subject to be known and the conditions for its knowledge.*

Nevertheless, this is not a general hypothesis. It was formulated during the examination of the current state of the art of historiography about a specific theme: the so-called Gregorian Reform. One of the keynotes at the beginning of this century has been the effort to revive[14] and expand the definition of the Gregorian Reform as 'the' medieval revolution. Seeing the 11th century as the scene of a rupture in civilisation, as a new moment of life in society in the Western world, spread through influential publications, including research monographs,[15] research syntheses,[16] university handbooks,[17] biographies.[18] Indeed, the historiography of the last two decades has been characterized by the recurrence of certain emphases. One of them is to frame revolutionary action as anti-corruption policy. One of the main innovations that would result from initiatives led by pontiffs such as Leo IX (1049-1054), Nicholas II (1059-1061) and Gregory VII (1073-1085) was a radical fight against corruption. Stringent logic, with many implications, comes into play at this point.  Just as the idea of 'revolution' serves as a breaking point, so does the contrast between corruption and

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[11] Cf. BOY, Renata Viana. Between law and history…, this volume.

[12] "Los 'estratos del tiempo' remiten a […] distintas dimensiones y profundidades, y que se han modificado y diferenciado […] con distintas velocidades." Portanto, "La ganancia de una teoría de los estratos del tempo consiste […] en poder medir distintas velocidades, aceleraciones o demoras, y hacer así visibles distintos modos de cambio que ponen de manifesto una gran complejidad temporal." In: KOSELLECK, Reinhart. *Los Estratos del Tiempo*: estudios sobre la historia. Buenos Aires: Ediciones Paidós, 2001, p. 35, 38.

[13] KOSELLECK, Reinhart. *Histórias de Conceitos…* p. 82.

[14] See: RUST, Leandro Duarte. "A história como revolução: a Idade Média e a essência da Modernidade." In: *A Reforma Papal (1050-1150)*: trajetórias e críticas de uma história. Cuiabá: Editora da UFMT, 2013, p. 57-83.

[15] CUSHING, Kathleen G. *Papacy and Law in the Gregorian Revolution*: the canonistic work of Anselm of Lucca. Oxford: Oxford University Press, 1998; CANTARELLA, Glauco Maria. *Il Sole e la Luna*: la rivoluzione di Gregorio VII papa, 1073-1085. Roma: Editori Laterza, 2005; ALTHOFF, Gerd. Rules and Rituals in Medieval Power Games: A German Perspective. Leiden: Brill, 2019, p. 171-214; MARTINE, Tristan; WINANDY, Jérémy (Dir.). *La Réforme grégorienne, une "révolution totale"?* Paris: Garnier, 2021.

[16] BELLITTO, Christopher M. Renewing Christianity: A History of Church Reform from Day One to Vatican II. New York : Paulist Press, 2001, especially p. 47-62 ; GOUGUENHEIM, Sylvain. *La Réforme Grégorienne* : de la lutte pour le sacré à la sécularisation du monde. Paris: Temps Présent, 2014.

[17] D'ACUNTO. Nicolangelo. *La Lotta per le Investiture*: uma rivoluzione medievale (998-1122). Roma: Carocci Editore, 2020.

[18] CANTARELLA, Glauco Maria. *Gregorio VII*: il papa che in soli dodici anni rivoluzionò la Chiesa e il mondo occidentale. Roma: Salerno Editrice, 2018.

anti-corruption take on the form of an epochal divide. Revolutionary, the 'Gregorian Reform' emerges as the episode that decreed the end of a world in which corruption prevailed as a social rule. The hypothesis put forward here is designed to be applied to the present case. Far beyond a mere record or description, the approach is based on the suspicion that when speaking of 'corruption', scholars delimit the horizon of possibilities in the decades before 1050, thereby setting up the heuristic conditions necessary to sustain the image of a later Papal Revolution in the path of historiographical discourse.[19]

From this point on I start analyzing the discursive intricacies of this historiographical operation.

## II.

The idea of 'corruption' addressed by historians of the Papal Revolution is simple. Suffice it to observe how they characterize the exponents of yesterday's world, that is, the popes who ruled between 950 and 1050, to note that this idea usually comprises two semantic layers. Let us start with an overview: "the [...] northern European audience [...] evidently was prepared to believe that the Romans—and perhaps especially their popes—were ineffectual, morally corrupt, untrustworthy and capable of anything".[20] The expression 'morally corrupt' smacks of inaccuracy.[21] It is hard to link it to a specific behaviour or concrete social action. However, as Kathleen Cushing's text progresses, it is given more precise contours. Let us see this excerpt about John XII (955-963): "his accession to the apostolic see was more than a little irregular (arranged, against canon law, in his predecessor's lifetime) and his pontificate was reputedly characterized by scandal, bribery, political intrigue, revolt and deposition".[22] From the new list, two elements delimit a roll of corrupt practices: 'bribery' and 'intrigue'. From this perspective, corruption is the illegitimate intermediation of public positions and figures, an interpretation that is corroborated

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[19] As for the challenges, often implicit, entailed by the use of the term corruption for the study of medieval history, cf. COELHO, Maria Filomena. Corruption in the Middle Ages as a research problem, this volume.

[20] CUSHING, Kathleen G. *Reform, and the Papacy in the Eleventh Century*: *spirituality and social change*. Manchester: Manchester University Press, 2005, p. 20.

[21] Albeit imprecise, the expression delimits a circumscription seen as a moral problem, corruption loses the tonality of a social phenomenon and takes on the colors of individual failure. As the following pages will show, such a semantic orientation has relevant implications for historical thinking. Regarding this individualizing accent of corruption and its analytical criticism, see: ROMEIRO, Adriana. *Corrupção e Poder no Brasil*: uma história, séculos XVI a XVIII. Belo Horizonte: Autêntica, 2017, p. 88-89.

[22] CUSHING, Kathleen G. *Reform, and the Papacy...* p. 21.

by what comes next, as the author continues: "many other examples can easily be found of popes who owed their promotions and their positions, or at least their downfalls, to the intrigue of Roman noble families".[23] This statement, in turn, allows a little more precision: 'corruption' here is the aristocratic intermediation of the public space.[24]

This is the first semantic layer. It is a discursive segment that the social sciences consolidated during the first half of the 20th century by spreading the Weberian terminology of 'patrimonialism' as a synonym for such a complete appropriation of the public by the private sphere to the point of rendering them indistinct.[25] In recent publications, the Gregorians emerge as revolutionaries for their total rejection of this assimilation that would characterize aristocrats and oligarchs. That is what Francis Fukuyama argues in the controversial and influential *The Origins of Political Order*, published in 2011: 'Pope Gregory's goal was to end corruption and rent seeking within the church by attacking the very source of patrimonialism, the ability of bishops and priests to have children.'[26] The presence of the aristocratic ethos — found in the search for genealogical perpetuation — emerges in the book as a force that drags the public sphere and the state itself into irreversible decline. That is what can also be read in the monumental *Revolution: Structure and Meaning in World History*, which Saïd A. Arjomand brought out in 2019. According to Arjomand, if Benedict VIII (1012-1024) and John XIX (1024-1032) restructured Roman administration and strengthened ties with the imperial court it was because 'the exclusive appropriation of the papal pontificate by the parochial and otiose Roman aristocracy", which had

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[23] CUSHING, Kathleen G. *Reform, and the Papacy...* p. 21.

[24] In another text, a competent thematic synthesis chapter published in 2015, the argument addresses the idea of a tenth-century 'feudal anarchy', in which aristocratic relationships and logics become politically predatory and erratic: 'Although modern scholars have described the period c. 1050–c.1250 as the growth of a "papal monarchy", envisaging the evolution and development of centralized institutions as mechanisms that enabled ever-growing papal supervision over the affairs of the Western Church and its peoples, such labels are arguably far too sweeping for characterizing the  type of power that the papacy actually exercised. That said, as the effects of tenth-century invasions began to recede and western European society slowly re-emerged from the effects of a disintegrating Carolingian world order, new opportunities for consolidation and stability appeared.' CUSHING, Kathleen. Papal Authority and its Limitations. In: ARNOLD, John H. (Ed.). *The Oxford Handbook of Medieval Christianity*. Oxford: Oxford University Press, 2014, p. 522. Note how the phrase 'effects of a disintegrating Carolingian world order' is close to the well-known idea of a tenth century populated by social and political upheavals due to a 'feudal mutation.' A prime example of the application of these conceptual premises to the tenth-century papacy is: COLLINS, Paul. *The Birth of the West*: Rome, Germany, France, and the Creation of Europe in the Tenth Century. New York: Public Affairs, 2013, especially p. 33-89.

[25] See: VARRAICH, Aiysha. Corruption: an umbrella concept. *QoG Working Paper Series*, vol. 5, 2014, p. 20-25; ROTHSTEIN, Bo; VARRAICH, Aiysha. *Making Sense of Corruption*. Cambridge: Cambridge University Press, 2017, p. 89-103.

[26] FUKUYAMA, Francis. *The Origins of Political Order*: from prehuman times to the French Revolution. New York: Farrar, Straus, and Giroux, 2011, p. 265.

elevated 'two Italian popes, Benedict and his brother, John' had been 'disturbed [by] the dire Saracen menace to Rome'.[27] In this case, the restructuring was not driven by a sense of governance, but by an oligarchic instinct for survival, for self-preservation.

The second semantic layer can be noticed even before the first has been fully excavated. It is clear in the mention of 'bribery', the idea of a subordination of political relations to economic coercion. Let us go back to the pages of *Reform and the Papacy in the Eleventh Century*, from where we selected the quotes by Kathleen Cushing. For that work also runs on this other level by placing emphasis on passages like this: 'keeping the papacy in the family [...] was thus not only desirable, but also profitable both for the family in question as well as the papacy itself'.[28] As can be seen, despite having a 'moral' root, corruption was an economic issue. Practices highlighted as corrupt are named by the clerical handling of money, especially concerning large sums changing hands during a pontifical succession. Prominent in this regard is the eve of the Papal Revolution: the years from 1044 to 1046, when a feverish sequence of resignations, elections and reversals led to the rise of three pontiffs, namely Benedict IX (1032-1048), Sylvester III (1045-1046) and Gregory VI (1045-1046). As stated in *Popes and Antipopes: the politics of eleventh century Church Reform,*[29] by Mary Stroll (2012); and *Inventing the Public Sphere: the public debate during the Investiture Contest,*[30] by Leidulf Melve (2007), when it comes to accusations of corruption levelled against the three popes involved, historiography has echoed the conclusion formulated fifty years ago by Peter Partner: 'whether it is proper to speak actually of a sale of the papacy we do not know, but the taint of money [was?] attached to the election, even if simony in the strict sense was avoided'.[31]

The corruption allegedly targeted by the Revolution was a routine of aristocratic intermediation of public figures and economic coercion of politics. As I said, a simple notion.[32] But this compact and cohesive definition plays a complex conceptual role that branches out in many ways.

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[27] ARJOMAND, Saïd Amir. *Revolution*: Structure and Meaning in World History. Chicago: The University of Chicago Press, 2019, p. 244.

[28] CUSHING, Kathleen G. *Reform, and the Papacy...* p. 22.

[29] STROLL, Mary. *Popes and Antipopes: the politics of eleventh century Church Reform*. Leiden: Brill, 2012, p. 22-23.

[30] MELVE, Leidulf. *Inventing the Public Sphere*: the public debate during the Investiture Contest. Leiden: Brill, 2007, vol. 1, p. 122-123.

[31] PARTNER, Peter. *The Lands of Saint Peter*: the Papal State in the Middle Ages and the Early Renaissance. London: Eyre Methuen, 1972, p. 107-108.

[32] For a concept of corruption with other nuances and application possibilities, cf. WEST, Charles. Corruption in the Middle Ages and problem of simony. This volume.

Corruption arises as the *sufficient cause of a sociological divide* between the government elite and government institutions. Pointing to the incidence of corrupt practices, historiography has presented as satisfactorily showed — that is, already endowed with factual coherence — the postulate that social recognition of the papacy was uncoupled from social knowledge about its occupants. 'Even if the morals of some popes were not all that could be desired by contemporaries, it is more than evident that the papacy as an institution not only continued to function but was in fact esteemed'[33] —argued Cushing. 'The papacy sank to its absolute nadir. Or it is safer to say that it was the popes themselves who sank. The papacy continued to command respect'[34] — that is how Thomas F. X. Noble clearly verbalized the dissociation. '*La cattedra di Pietro sembrerebbe già mettere al riparo dalle debolezze e dalle turpitudini degli uomini che vi siedono sopra. Le sue prerogative sono fuor di dubbio*'[35] — recently stressed Glauco M. Cantarella. The argument is tautological, up to a point. As an *aristocratic intermediation* and economic coercion through *clerical dealing with money*, corruption was tacitly limited to individual action. Its scale is demarcated at the biography level. As such, it is extremely difficult to believe it had any systemic impact on the social fabric or affected structuring relationships. The idea of 'corruption' works as a silent prohibition, marking the point where thought must halt, by virtue of its internal coherence.

My aim with this analysis is not revisionism. It is possible to propose a nuanced interpretation of the reputation of the popes that preceded 'the Revolution'. To show that such a reputation for corruption not only satisfied political agendas, but was offset by other reputations: that 'the much-maligned Theophylacti family that dominated Rome in the early tenth century had a positive local reputation for monastic patronage',[36] that Benedict VIII and John XIX acted as zealous defenders of the liturgical integrity — and universal supremacy — of the Roman faith before the high clergy of Constantinople.[37] To the strong argument that 'it cannot be denied that aristocratic Roman families […] often fulfilled the worst expectations of contemporary

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[33] CUSHING, Kathleen G. *Reform, and the Papacy…* p. 23.

[34] NOBLE, Thomas F. X. Narratives of Papal history. In: SISSON, Keith; LARSON, Atria A. (Ed.). *A Companion to the Medieval Papacy*: growth of an ideology and institution. Leiden: Brill, 2016, p. 24.

[35] CANTARELLA, Glauco Maria. *Gregorio VII…* p. 25.

[36] HOWE, John. *Before the Gregorian Reform*: The Latin Church at the turn of the first millennium. Ithaca: Cornell University Press, 2016, p. 242.

[37] SIECIENSKI, Anthony Edward. *The Papacy and the Orthodox*: Sources and History of a Debate. Oxford: Oxford University Press, 2017, p. 241-242.

chronicles by using the papacy as a means of obtaining and consolidating political power,[38] one can oppose the demonstration by David Whitton and, more recently, by Chris Wickham, that those same families did not transform papal hegemony into a platform for the expansion of their private fortunes.[39] But that is not the point. My goal is not to question the pertinence of the 'corruption' category. Largely, it is about the opposite: to demonstrate how that term determines the criteria by which the expectation of meaning generated by historiographic reason is considered to have been met. To demonstrate, in short, how such a category makes historical knowledge relevant, not the other way around.

The conceptualization of a split between government elite and institution lends credibility to the idea that a relevant portion of institutional functioning and, especially, of institutional legitimacy was not linked to the holders of social power. In that case, who might have been the binding force? Let us reformulate the question with more accurate information. If papal prerogatives and social esteem were not perpetuated by the ecclesiastical and lay elite, who kept them active? The answer is left unsaid. In general, the subject for such a sociological arrangement is not explicitly named, it does not emerge between the lines. As far as I could read, I came across an author who, modelling the Papal Revolution, proposed an alternative formula: Robert Ian Moore, who linked the institutions of the year one thousand to the 'entrance of the multitude into history'.[40] But Moore is an exception. The rule is that the image of a historical subject, in this case, does not emerge. For it is prevented from emerging.

It is possible to note that the current conceptualization connects the idea of corruption directly with two others: that of kinship (arranged on the threshold of reasoning thanks to the axiom of aristocratic intermediation) and that of wealth (implied by the postulate of economic coercion). These are two founding categories of the concept of 'manorial or feudal power', which thus orbits the semantic field of 'corruption'. The latter, therefore, exerts an attraction on the former, linking it to the biographical and episodic level. The consequence is that manorial logics and

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[38] CUSHING, Kathleen G. *Reform, and the Papacy...* p. 22.

[39] WHITTON, David. *Papal Policy in Rome*, 1012-1024. (PhD Thesis) Wolfson College, 1979, p. 63-184; WICKHAM, Chris. *Medieval Rome*: stability and crisis of a city, 900-1150. Oxford: Oxford University Press, 2015, p. 186-220.

[40] MOORE, Robert Ian. *The First European Revolution, c.970-1215*. London: Blackwell Publishing, 2000, especially p. 160-189. Moore outlines the Gregorian Reform as a chapter or phase in an incomparably larger revolution. A 'social revolution' that, occurring decades before and after the year 1000, caused pressure and community stimuli —'from below' the social structure—to determine the discretionary spheres existing in the institutions of the period.

relationships emerge as symmetrically opposed to the legitimacy of institutional prerogatives. A condition of possibility for knowledge is thus installed. Rather, a *condition of impossibility*: under these characterizations, a subject capable of perpetuating papal functionality and social esteem cannot be a manorial force.[41] This limiting condition becomes unspeakable when it comes to thinking about the history of an agrarian society, repeatedly described as the stage of the full implementation of feudalism, as is the case of Latin Christianity in the year one thousand. The *unsaid is a heuristic demand inscribed by the idea of corruption*.

This silencing, in turn, unfolds into a new narrative tension. Whilst this prevails, the text is kept on the verge of being traversed by sharp contradiction. The cohesion of the term 'institution' is about to run out. Once its sociological expressiveness is restricted; once the decision has been implicitly made to restrict the scope of the social significance of the exercise of papal power in contexts prior to the Revolution, the discursive efficacy of speaking of 'institution' is challenged. Or, drawing once more on Koselleck, the 'reality of conceptuality'[42] loses its formulating power. Thus, it is necessary to adjust the concept to its closure, nominally reformulating it, since, due to the consolidated uses of the notion of corruption, it no longer covers a dynamic state of affairs. Such an adjustment was occurred when Kathleen Cushing coined the intriguing term 'passive institution'. The idea appears in different parts of her writing but achieves greater visibility in characterizing the early revolutionary process, which allegedly began during the pontificate of Leo IX: 'his use of papal legates and especially his many reforming councils [...] mark the beginnings of the transformation of the papacy from being a significant albeit passive institution into one which had seized the initiative'.[43] Prior to the 1050s, the mechanisms of papal administration

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[41] Long before being a historiographical effect, this development occurred in medieval reality itself, with, for example, the canonical discourse on corruptibility preventing the emergence of certain historical subjects as legal subjects. Cf. TORRES FAUAZ, Armando. *Lesser and corruptible*: the worth of a humble man's word during the Middle Ages, this volume. This interpretative model permeates his vast and wealthy production, but I believe that the paradigmatic examples, in addition to the work, are MOORE, Robert Ian. Family, community, and cult in the eve of the Gregorian Reform. *Transactions of the Royal Historical Society*, s. 5, n. 30, 1979, p. 46-69; MOORE, Robert Ian. The Peace of God and the Social Revolution. In: HEAD, Thomas; LANDES, Richard (Ed.). *The Peace of God*: *social violence and religious response in France around the Year 1000*. Ithaca: Cornell University Press, 1992, p. 308-326. See also: RUST, Leandro Duarte. "A história como revolução..." p. 57-83. Moore's historiographic influence noted in: HAMILTON, Louis. *A Sacred City*: *consecrating churches and reforming Society in eleventh-century Italy*. Manchester: Manchester University Press, 2010, especially p. 56-88.

[42] KOSELLECK, Reinhart. *Histórias de Conceitos...* p. 74.

[43] CUSHING, Kathleen G. *Reform, and the Papacy...* p. 66. The concept of 'passive institution' is not new. At the time Cushing's book published, the term appears in at least two bibliographic niches: the literature on financial management formally addressed the subject of passive institutions, and there was a rich body of constitutional studies and political theory on the illegitimacy or passive legitimacy of institutions.

comprised an entity designed to cater for fragmented, casuistry interests, 'more than prepared to provide what Karl Leyser aptly termed "a costumer's service".'[44] The privileges granted by the Petrine primacy 'demonstrate that the papacy during the tenth and earlier eleventh centuries was an essentially passive institution, fixed in Rome, where individuals came for sanction, privileges, guidance and increasingly, it must be noted, judgment'.[45] It is worth noting how the idea of a 'passive institution' shapes the argument for locating power within the sphere of the individual, of local intermediation and of the episodic variety of social circumstances: precisely the parameters delimited by the uses of the notion of 'corruption'. In *Église et Réforme au Moyen Âge*, from 2008, Jean-Hervé Foulon followed a similar intellectual pathway. After demonstrating that the feudal Church was marked by *'étroite symbiose entre les motivations religieuses et profanes', that 'les cas de simonie sont extrêmement fréquents' and 'le nicolaïsme apparaît donc aux détours des chartes'*, probably due to the *'rélle sécularisation de l'Église fondée sur l'interpénétration étroite entre christianisme et féodalité'*, Foulon states: *'durant la prmière moitié du Xi<sup>e</sup> siècle, les interventions pontificales restèrent épisodiques et furent simplesmente des réponses à des initiatives locales'*.[46] When the semantic rule was established to describe the institutional, the concept of 'corruption' had an even broader effect; it *regulated the vocabulary available to express power relations* of a given period.

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[43] As examples, see respectively: ALMAZAN, Andres; HARTZELL, Jay; STARKS, Laura. Active Institutional Shareholders and Costs of Monitoring: Evidence from Executive Compensation. *Financial Management*, vol. 34, vol. 4, 2005, p. 5-34; ENGEL, Christoph. Hybrid Governance Across National Jurisdictions as a Challenge to Constitutional Law. *European Business Organization Law Review*, vol. 2, n. 3-4, 2001, p. 569-583. However, the way in which Cushing uses the expression does not suggest a connection between the two strands. On the other hand, the idea of institutional passivity relates to a wide range of possibilities of forms of resistance, commonly referring to how subaltern groups or dominated classes establish strategies of social action. Example: SCOTT, James C. *Domination, and the Arts of Resistance: hidden transcripts*. New Haven: Yale University Press, 1990. For obvious reasons, I have ruled out the possibility that the expression formulated in that sense. Despite the apparently *en passant* use of the expression —moreover, the only reference given is a review by Karl Leyser on the publication of the volumes of *Papsturkunden 896-1046*, by Harald Zimmermann — I infer a certain sociological functionality in its use, as if it explained the efficiency and social scope of an institution. I was unable to identify a theoretical framework that might have supported such a construction of the category. See also: LEYSER, Karl. Papsturkunden 896-1046, 1: 896-996. - Papsturkunden 896-1046, II: 996-1046, edited by Harald Zimmermann. *The Journal of Ecclesiastical History*, vol. 39, n. 2, 1988, p. 246-248.

[44] CUSHING, Kathleen G. *Reform, and the Papacy...* p. 23. An interpretive model that she expanded about a decade later, covering the history of the papacy as a whole: 'Throughout the middles ages after all, the papacy chiefly operated what has been termed by Karl Leyser "a customer's service": not only did papal legislation as noted above often come in the form of rescripts to letters from the localities, but papal privileges for monasteries, bishoprics, churches and also bulls of canonization often originated outside Rome. Even at its "height" under Alexander III (1159–81), Innocent III (1198–1216), and Boniface VIII (1294–1303), the papacy operated through a range of changing structures and personnel'. CUSHING, Kathleen. Papal Authority and its Limitations..., p. 517. As for my understanding of the relevance and political role of the personalization of papal power, see: RUST, Leandro Duarte. *Colunas de São Pedro*: a política papal na Idade Média Central. São Paulo: Annablume, 2011.

[45] CUSHING, Kathleen G. *Reform, and the Papacy...* p. 24.

[46] FOULON, Jean-Hervé. *Église et Réforme au Moyen Âge* : Papauté, milieux réformateurs et ecclésiologie dans les Pays de la Loire au tournant des XI<sup>e</sup>-XII<sup>e</sup> siècles. Paris: De Boeck, 2008, p. 39, 45, 46, 49, 91.

In speaking of 'corruption', we historians guide an entirely contemporary expectation about political protagonism. By imparting historical relevance to corrupt practices, we inscribe tacit prohibitions and subtle norms that end up delegating to a future context the retribution of the search for those capable of imprinting a human mark that goes beyond the local, the biographical and the casual. We postpone the meeting of our readers with the protagonists of history, that singular collective that, since the late 18th century, transcends all individual stories.[47] As for the study of Latin Christianity, such postponement results in a kind of sociological 'de-substantialized'[48] of political institutions and elites prior to 1050. And, stripped of social density, the context surrounding the year one thousand becomes, on the narrative level, a focus of conceptual tension, which, in turn, will require expanding the temporal grammar conjugated by thought. That is what I will show next.

## III.

De-substantialized, the context characterizes a picture of stagnation. In the study of the Middle Ages, the presence of corruption is linked to the image of a social development marked by slow rhythms that tend towards a Newtonian equilibrium, i.e. a situation in which the acting forces cancel each other out, giving rise to a state of rest or inertia. As an example, let us see the following argument, taken from *La Réforme Gregorienne: de la lutte pour le sacré à la sécularisation du monde*, an introductory summary released by Sylvian Gouguenheim in 2010 and re-published in 2014. After referring to the period around the 1000s as being populated by '*plusieurs papes débauchés, peu socieux du prestige ou du pouvoir de l'institution dont ils avaient la charge*', Gouguenheim explains that '*en fait, il n'y eut pas déclin ou progrès constant: les crises révélèrent de grands pontifes ou mirent en lumière les incapacites des autres*'.[49] This cyclical alternation between waning and waxing papal policy creates the impression of a zero-sum game, in which there are no significant changes. Truth be told, the author nuances this interpretation, pointing out '*les progrès de l'administration, inspires du modele byzantin, bien que lents, furent sensibles. La chancellerie commence à se*

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[47] See: KOSELLECK, Reinhart; MEIER, Christian; GÜNTHER, Horst; ENGELS, Odilo. *O Conceito de História*. Belo Horizonte: Autêntica, 2013, p. 119-132. E ainda: KOSELLECK, Reinhart. *Futuro Passado*: contribuição à semântica dos tempos históricos: Rio de Janeiro: Contraponto/Editora da PUC-Rio, 2006, p. 41-60.

[48] KOSELLECK, Reinhart. *The Practice of Conceptual History*: timing history, spacing concepts. Stanford : Stanford University Press, 2002, p. 9.

[49] GOUGUENHEIM, Sylvain. *La Réforme Grégorienne...* p. 40.

*développer au IXe siècle, des bureaux spécialisés apparaissent, les services financiers prennent forme'*.[50] However, the impression of a story written as Newton's First Law remains. For, in this case, the force driving progress is, in practice, a factor external to Latin Christianity—the influence of a Byzantine model—and yet capable of producing a 'slow' movement. Due to its nature, the Latin world, where corruption prevails, is a system of forces that tends to stagnation or inertia.

Albeit partially, this relative immobility of historical time is supported using the notion of 'corruption' as a synonym for the corrosion of a virtuous political model: the Reformation. The reforming action is, for the historiography dedicated to the tenth – and eleventh-century papacy, a political dynamo, a catalyst for transformations. When an achievement worthy of note is attained, it is because this source for the creative mind has been tapped: *'bien avant la reforme grégorienne, plusieurs papes exprimèrent une volontè de progrès, favorisée par un pouvoir impèrial qui fut, sinon le promoteur, du moins l'accompagnateur de la réforme'*[51] — appears elsewhere in Gouguenheim. For this reason, renewing eleventh-century historiography requires, according to Maureen Miller, redirecting the attention dedicated to the papacy to the local spheres of the ecclesial web, where the Reformation that the great institutions transformed and propagated was hatched: "the renovated narrative of the investiture conflict that might be achieved from this perspective would be a story of local efforts at reform synergized and transformed through innovation at the centre and of the creation of a powerful new 'transnational' institution".[52]

However, these views of transnational reform as the effective and efficient political language during the medieval centuries contain a capital nuance: from the viewpoint of a study of power relations in the tenth and eleventh centuries, they locate *the causes of change in the future*. The popes and other prominent ecclesiastical figures around the year one thousand belonged to a political world that was more rigid and close to stagnation the farther they were in time from the generations that acted in

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[50] GOUGUENHEIM, Sylvain. *La Réforme Grégorienne...* p. 40.

[51] GOUGUENHEIM, Sylvain. *La Réforme Grégorienne...* p. 47.

[52] MILLER, Maureen. The Crisis in the Investiture Crisis Narrative. *History Compass*, vol. 7, n. 6, 2009, p. 1575. In this brief yet eloquent text, Miller proposes a historiographic shift that directly impacts the 'great narratives' crystallized throughout the 20th century regarding the 'Gregorian Reform'.In general, what is at stake is prioritizing the writing of a social history that includes the development, at local level and in new documentary niches, of the technologies of power generated by the reform in addition to the techniques and languages conveyed by institutions such as the papacy or the imperial court. However, this proposal still leaves a 'great narrative,' which took shape in the 19th century, intact: it is the postulate that, in the Middle Ages, political action always has, as an efficient cause, a 'reforming spirituality'. A premise on which I tried to establish a critical reading, especially in: RUST, Leandro Duarte. *Colunas de São Pedro*....

1050 or 1080. The political model they corrupted by prioritizing manorial kinship and wealth lies ahead. Their successes stemmed from behaviours that gave early prominence to future priorities: they are identified by the similarity with the decisions taken by Leo IX or Gregory VII. On the other hand, such men appear by transgressing legality or legitimacy when they move in the opposite direction of the course of action that, one day, would be adopted by Urban II (1088-1099) or Paschal II (1099-1118).

Largely, the history of the period spanning from 950 to 1050 is a countdown narrative of how the Reformation, continually latent, is brought to the fore, removed from the reach of corrupt practices, which delay its imminent consummation. This teleology turns the future into the gravitational centre of historical becoming, exerting a power of acceleration as the decades follow each other on the page. In other words, the closer to 1050 or 1080, the more intense the pace of transformations. Note how Glaucon Maria Cantarella characterises the period from 1042 to 1046:

> 'quattro/cinque anni possono apparire pochi visti con l'occhio dei posteri, ma sono molti e possono essere molto lunghi. Benedetto IX cercò di confortare la posizione del papato attraverso una serie di azioni che andavano dalla disponibilità nei confronti del re all'attuazione a Roma di alcune di quelle riforme che nelle Chiese del regno stavano dando pienamente i loro frutti'.[53]

What dilates temporality here, making forty-eight months denser in meaning than forty-eight months ten years earlier, is the transposition to Italy of the reform that 'was fully bearing fruit' in the kingdom of the Teutons.

There is a semantic alignment between 'corruption' and 'reform'. The closure of the first is opposed by a drastic opening of the second to the conceptualization of time. 'Reform' starts to encompass precisely what is prohibited to a context through the uses of 'corruption': the integration of biographical trajectories in a new time, which 'refers to itself and dispenses with the need to be linked to a concrete object or subject'.[54] In the stagnation of an era marked by corruption lies the antecedent that gives coherence and cohesion to this thematization of a new time mode: '*dans le feu purificateur de son action conciliaire*', writes Michel Bur regarding Leo IX, '*peu importait au pape qui avait nommé qui, pourvu que le bénéficiaire fût indemne de toute corruption. Affaire de conscience droite encore une fois. Toute la réforme de l'Eglise est sortie de là*'.[55]

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[53] CANTARELLA, Glauco Maria. *Gregorio VII...* p. 63.

[54] KOSELLECK, Reinhart. *Histórias de Conceitos...* p. 88.

[55] BURR, Michel. Léon IX et la France. In: BISCHOF, Georges; TOCK, Benoît-Michel (Ed.). *Léon IX et son temps*. Turnhout: Brepols, 2006, p. 257.

More than the record of empirical evidence, the characterization of corrupt practices acts here as a contrast that imparts clarity to the reforming action as a temporal coefficient. As antithetical concepts, 'corruption' and 'reform' 'enter a state of temporal tension that, in new ways, links the past to the future'.[56] This tension imposes a livelier movement on history by populating it with new, dense events that follow each other at a greater speed than before; *'sappiamo bene che l'accelerazione e la concentrazione di interventi consapevoli atti trasformare gli assetti di una istituzione costituiscono una specie di principium individuationis dell'azioni riformatrice'* — explains Nicolangelo D'Acunto.[57] In this conceptual plot, what precedes 1050 is not a past that limits future possibilities, but the incomplete, unfinished future. The past is here a field of expectations of the reforming era, which emerges described as the quintessence of power: 'like Norman Kantor, Walter Ullmann, R. W. Southern, R. I. Moore, and Peter Haidu, I view the Gregorian Reform as a revolution', explicates Suzanne Verderber in the very first chapter of *The Medieval Fold: power, repression, and the emergence of the individual*, of 2013, and goes on, 'the term "reform" connoting the eradication of corruption rather than the deep structural transformation of society, the manifestation of a veritable will to power, that the Gregorian Reform represented'.[58] Thus, the Reformation leads to historiography as a self-referential category.[59]

This process can be noticed in Florian Mazel's work.[60] His proposal to reformulate of the concept of the Gregorian Reform as a 'Total Revolution' of life in society is quite insightful. Starting with the chronology. Mazel seeks to conceptualize a range of processes that supposedly took place from the mid-11th century to the first half of the 13th century: therefore, a two-hundred-year revolution. Above all, it's about

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[56] KOSELLECK, Reinhart. *Histórias de Conceitos...* p. 88.

[57] D'ACUNTO. Nicolangelo. *La Lotta per le Investiture...* p. 21.

[58] VERDERBER, Suzanne. *The Medieval Fold*: *power, repression, and the emergence of the individual.* New York: Palgrave Macmillan, 2013, p. 31-32.

[59] As a counterpoint to this approach, see: HAMILTON, Sarah. Pastoral Care in Early Eleventh-Century Rome. *Dutch Review of Church History*, vol. 84, 2004, p. 37-56; BARROW, Julia. Ideas and Applications of Reform. In: NOBLE, Thomas F.X.; SMITH, Julia M. (Ed.). *The Cambridge History of Christianity*. Volume 3: Early Medieval Christianities, c.600–c.1100. Cambridge: Cambridge University Press, 2008, p. 345–362; BARROW, Julia. Developing Definitions of Reform in the Church in the Ninth and Tenth Centuries. In: BALZARETTI, Ross; BARROW, Julia; SKINNER, Patricia (Ed.). *Italy and Early Medieval Europe*: papers for Chris Wickham. Oxford : Oxford University Press, 2018, p. 501-511.

[60] MAZEL, Florian. Pour une redéfinition de la réforme "grégorienne". FOURNIER, Michelle et al. (Dir.). *La Réforme "grégorienne" dans le Midi (milieu XIe - début XIIIe siècle)*. Toulouse: Privat, 2013, p. 9-38; MAZEL, Florian; NOIZET, Hélène. *L'Inventaire de la Chrétienté*: la fabrique épiscopale du territoire au Moyen Age. Paris: Éditions B2, 2021; MAZEL, Florian. Introduction. Une "révolution totale"? Penser la réforme grégorienne par-delà les frontières historiographiques. In: MARTINE, Tristan ; WINANDY, Jérémy (Dir.). *La Réforme grégorienne, une "révolution totale" ?* Paris : Garnier, 2021, p. 15-25; MAZEL, Florian. La réforme grégorienne. Un tournant fondateur (milieu XIe-début XIIIe siècle). In: MAZEL, Florian (Dir.). *Nouvelle Histoire du Moyen Âge*. Paris: Seuil, 2021, p. 291-306.

highlighting radical transformations, which, from morality to spatiality, from disciplinary rules to property organization, supposedly culminated in the irreversible separation between the ecclesial institution and the *societas christiana*. This would require orienting the historical lexicon, directing it from the key concept of a revolutionary process defined by the intentionality of agents and the realization of an ideological agenda to the pluralism of *'processus plus souterrains ou plus ambigus qu'elle [l'Eglise] engagea et les résistances qu'elle rencontra en atténuèrent souvent la radicalité. La production du neuf se fit à travers toute une serie de compromis, d'adaptations et d'ajustements qui furent d'ailleurs la raison même de l'acceptation progressive du changement'*.[61] Mazel is equally concerned with stripping the word 'revolution' of *'ce qu'il charrie de violence et de "table rase" du passé'*, for only then, as the vehicle of a different semantic commitment, will it become *'véritablement heuristique'*.[62] However, an absence is felt in this sophisticated conceptual panorama: an equally complex chain of causalities for the establishment of the Total Revolution. As seen in *Nouvelle Histoire du Moyen Âge*, from 2021, rupture is already the beginning of a new era. Largely, the Gregorian Reform there is akin to the sacred in Mircea Eliade: it manifests itself in history.[63]

As for its realization, the transformation arises from awareness. It emerges from *'revendications des réformateurs'*, from battles fought over such ideals as the right order of ecclesiastical affairs, going into action as a *'programme de "moralization" des clercs et de "liberation" des structures de l'Église de l'emprise des laïcs'*.[64] In this view, the emergence of a 'radical clerical ethics' in the mid-11th century is not only the impetus for a new totalization of reality, but also *an immanent element* that makes historical dynamization possible, which enables a continuous birth of the new. Reacting to all forms of corruption, this ethics is the constant that encompasses different events and concatenates them in a flow of similar conditions, which will be repeated throughout

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[61] MAZEL, Florian. Introduction. Une "révolution totale" ?... p. 23.

[62] MAZEL, Florian. Introduction. Une "révolution totale" ?... p. 23.

[63] See: ELIADE, Mircea. *O Sagrado e o Profano*: *a essência das religiões*. São Paulo: Martins Fontes, 2001, p. 15-23. There is more to this association than a fortuitous connection. When writing this article, a secondary working hypothesis occurred to me: that Kantian phenomenology — the cornerstone of Mircea Eliade's studies — is one of the epistemic frameworks behind the temporal characterization of religious phenomena in French writing when it comes to the Gregorian Reform — especially of that historiography with *annalistes* roots, as is the case of Florian Mazel. Such a hypothesis, however, would imply dealing with issues that go beyond the scope of this text; as Mazel himself indicated, gauging a religious 'fact' or 'object' is a challenge that addresses seminal premises of the process of elaborating historiographical truth. See: MAZEL, Florian. Histoire et religion, entre pratique historiographique, príncipes épistémologiques et enjeux de sociétés. *Recherches de Science Religieuse*, vol. 109, n. 4, 2021, p. 701-716.

[64] MAZEL, Florian. La réforme grégorienne. Un tournant fondateur... p. 295.

the heterogeneous landscape of Latin Christendom. In other words, *it is the very pillar of time*. In turn, it's supposed absence, often — but not only — pointed out by the confirmation of corruption, suffices to decree certain immobility, a state of social rest. Similarly, in *La Maison Dieu*, a major work released in 2006, pre-existence to the 'age of reform' is what allows Dominique Iogna-Pratt to refer to the period from 880 to 1040 as a time of '*une eclipse d'un bon siècle et demi*'.[65]

As can be seen, 'reform' and 'corruption' are not mere depositories of information or factual catalogues, but 'words that intend to conceptualize processes that unfold in historical time'.[66] Both provoke, albeit imperceptibly, a remarkable effort of abstraction, since they make it possible to manage notions such as stagnation and acceleration, permanence and rupture, persistence, and differentiation. They are more than names. They are ways of talking about history, of inscribing durations and determining the movement and even the intensity of collective experiences. In the case of 'corruption', its use is capable of investing a given period with the image of past that is already obsolete, a certain state of affairs whose finitude has already been decreed by the proximity of a future that, populated by necessary and universalizable innovations, was integrated into the execution of the history of the tenth and eleventh centuries. Evoking it is a way of unravelling two coherent and homogeneous totalities that enable the inscription of temporality in language: the past and the present, the absent and the effective, the evanescent and the structuring. In speaking about 'corruption', we tie up some loose ends regarding the transformation of time, about how it would have ceased to be a static landscape inhabited by characters and events to become the actual historical agent.

## IV.

Characterizing the Gregorian Reform as a revolution — and, not infrequently, as 'the' medieval revolution *par excellence* — goes beyond the field of historical science. Similar intellectual investments occur in legal studies and political theory, thanks to

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[65] IOGNA-PRATT, Dominique. *La Maison Dieu*: une histoire monumentale de l'Église au Moyen Âge. Paris: Seuil, 2006, p. 317.

[66] KOSELLECK, Reinhart. *Histórias de Conceitos...* p. 171.

the influence exerted by *Law and Revolution: The Formation of the Western Legal Tradition*, the first volume of a seminal synthesis released by Harold Joseph Berman in 1983.[67] At the intersection of these two domains, a recent study thus begins an assessment of the current importance of the topic: 'In recent decades, the rule of law has been highlighted as the solution to numerous problems', writes the author, the Danish professor of political science Jørgen Møller. 'This emphasis on the rule of law has made scholars probe its historical roots and, in this connection, reengage with an older literature on the modernization of the West'. This is followed by a point that deserves even greater attention: 'In the words of Alexis de Tocqueville, scholars have attempted to identify the *point de départ* of the European development. Surveying this literature—and perusing what medieval historians have written on the subject—two points of consensus can be identified. First, the roots of the rule of law that we know today is to be found in medieval Western Christendom'. More specifically, this starting point for the rule of law could be found in the Gregorian Reform or Papal Revolution, which "did turn church-state relations upside down in the eleventh century".[68]

It does not seem to me by chance that Møller identified the current intellectual quest with that carried out by Alexis de Tocqueville in the mid-nineteenth century. Tocqueville was the first author to give a conceptual treatment to the expression 'Old Regime'.[69] With the publication of *L'Ancien Régime et la Révolution*, in 1856, the expression was elevated to a concept tailored to reflection not only on the government regime against which rose the revolutionaries of the 1790s, but also on French society and times prior to the establishment of the National Constituent Assembly in July 1789. Hence, Tocqueville consolidated a decisive theoretical nexus: the premise that the Revolution was preceded by a period whose distinct characteristics are

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[67] Here are examples of this intellectual investment: COLOMBATTO, Enrico. It Was the Rule of Law: Will it be the Rule of Judges? *Revue Économique*, vol 58, 2007, p. 1163-1180; BARSHACK, Lior. The Communal Body, the Corporate Body, and the Clerical Body: An Anthropological Reading of the Gregorian Reform. In: BESSERMAN, Lawrence (Ed.). *Sacred and Secular in Medieval and Early Modern Cultures*: New Essays. New York: Palgrave Macmillan, 2006, p. 101-121; MØLLER, Jørgen. Bringing the Church Back In: Ecclesiastical Influences on the Rise of Europe. *Politics and Religion*, vol. 12, n. 2, 2019, p. 213-226; DE MESQUITA, Bruce Bueno. The Invention of Power: popes, kings, and the birth of the West. New York: Public Affairs, 2022. For a critical approach to Harold Berman's theory see: AUSTIN, Greta. How Old was the Old Law? Talking about Change in the History of Medieval Church Law. *Bulletin of Medieval Canon Law*, vol. 32, 2015, p. 1-18; AUSTIN, Greta. New Narratives for the Gregorian Reform. In: ROLKER, Christof (Ed.). *New Discourses in Medieval Canon Law Research*: Challenging the Master Narrative. Leiden: Brill, 2019, p. 44-57. It is possible to note the influence, albeit to a lesser extent, in other fields of knowledge, such as philosophy: NEMO, Philipe. The Invention of Western Reason. In: BROGAARD, Berit; SMITH, Barry Smith (Ed.). *Rationality and Irrationality*: Proceedings of the 23rd International Wittgenstein-Symposium. Wien: Öbv&hpt, 2001, p. 224–241.

[68] MØLLER, Jørgen. Medieval Origins of the Rule of Law: The Gregorian Reforms as Critical Juncture? *Hague Journal on the Rule of Law*, vol. 9, 2017, p. 279.

[69] DOYLE, William. *The Ancien Regime*. London: MacMillan, 1986, p. 9.

communicated by the use of the expression '*Ancien Régime*´ [in English Old Regime]. Since then, studying the Revolution has meant characterizing of the *Ancien Régime* as an immediately preceding historical phase. That is precisely what has happened in the writing of medieval history with the use of the concept 'corruption': it has provided the Papal Revolution with an Old Regime.

As a synonym of aristocratic intermediation and economic coercion of public agents, the concept gives the decades prior to 1050 the fundamental aspect of an age dominated by a power confined to casuistry, an open field for arbitrariness and the pursuit of merely private interests. More. As far as it outlines the image of a split between political institutions and elites, 'corruption' underpins the certainty that we are dealing with a period in which the government did not have institutions that were minimally representative of life in society, lacking greater collective vitality, as occured on the eve of the French Revolution according to Tocqueville.[70] A model of society is also inscribed in this libertarian *topos*. Finally, dominated by the regime of privileges constantly obtained from a 'passive institution,' collective life becomes the painful process of perpetuating aristocracy. Painful because it is deformed, pulverized into an endless injunction of cases, exceptions, and inequalities: the most visible manifestation of a feudal regime. As William Doyle argued, this is another political *topos* of the late 18th century.[71] One which Tocqueville would reposition in the intellectual milieu as a philosophical and historical issue when he reflected on the possible consequences of the nobility's loss of governing capacity to the dissemination

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[70] Says the Count of Tocqueville: 'It is not the purpose of this book to tell how this ancient constitution of Europe gradually weakened and deteriorated; I limit myself to stating that, in the 18th century, partly ruined everywhere. [...] All the powers of the Middle Ages that still exist suffer from the same disease; all exhibit the same withering and languor and, what is worse, everything that, without belonging specifically to the constitution of that time, has become attached to it and has kept its imprint somewhat alive, promptly loses its vitality. In this contact, the aristocracy contracts a senile weakness and political freedom itself, which pervaded the entire Middle Ages and its works, seems to suffer from sterility wherever it retains the characters that medieval times gave it.' TOCQUEVILLE, Alexis de. *O Antigo Regime e a Revolução*. São Paulo: Edipro, 2017, p. 60-61. See also: DOYLE, William. *The Ancien Regime*... p. 4-9. According to Nicolango D'Acunto, medieval populations were the 'great history of the West' until the outbreak of the ideological struggle between Gregorian reformers and defenders of the imperial cause, from the 1070s onwards: 'A questa domanda possiamo rispondere considerando che la guerra tra i riformatori gregoriani e l'Impero fu combattuta con le armi vere e proprie, ma fu pure una *war of words*, di parole scritte e declamate, e di idee che dal chiuso delle corti prorompevano con forza inusitata nelle piazze e nelle chiese delle città, coinvolgendo per la prima volta le masse popolari, che fino ad allora avevano assistito passivamente ai rivolgimenti della grande storia del Medioevo occidentale'. D'ACUNTO. Nicolangelo. *La Lotta per le Investiture*... p. 12. There seems to me to be a tangible parallel between the image of historical passivity—which, as we have seen, linked to the application of 'corruption' to the study of the tenth and eleventh centuries—and the way in which Tocqueville characterizes the loss of collective vitality of the institutions of the Old Regime.

[71] 'Why is it then that in France the same feudal rights have excited in the hearts of the people a hatred so strong that it has outlived its very object and therefore seems inextinguishable? The cause of this phenomenon is, on the one hand, that the French peasant had become a landowner and, on the other hand, that he had completely escaped the rule of his lord.' ALEXIS DE TOCQUEVILLE. *O Antigo Regime e a Revolução*... p. 71, e ainda 72-73. Ver; DOYLE, William. *The Ancien Regime*... p. 3.

of a popular hatred against the old French institutions — the very sap that would nourish the French Revolution.[72]

As the antithesis of the Reformation, 'corruption' underpins a process of temporalization. It emerges as an argumentative platform that drastically separates two periods, between which there is no continuity. Distinguished by the prevalence of corrupt practices on the one hand and a radical clerical ethics on the other, they would have extraordinarily little or nothing in common. Except for the fact that the first moves, teleologically, towards the second, since revolutionary action acts as the driving force; as the impulse that releases and moves the social totality towards the new and different; as, in short, synonymous with history itself. The concept of 'corruption' leads the understanding to a multi-faceted dichotomy: stagnation *versus* acceleration, local *versus* total, individual *versus* collective. The effect is the consolidation of a perspective that makes *a long portion of the medieval past seem anachronistic to the actual Middle Ages* — just as Tocqueville had considered anachronistic the privileges and feudal rights preserved under the Old Regime.[73] 'Corruption' opens a fissure, a breach through which a metahistorical meaning passes into the text and pressures the representation of a past to respond to demands projected by other times. As did Tocqueville in *L'Ancien Régime and la Révolution*, where, as Marcelo Jasmin noted, "modern individualism, administrative centralization, the distancing of citizens from public experience [...] are some of the themes [...] whose focus goes far beyond the specific historical situations in which they emerged".[74]

When it comes to the study of the 10th and 11th centuries of Latin Christianity, the notion of 'corruption' involves the outline, often dotted, of a latent philosophy of

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[72] JASMIN, Marcelo. Historiografia e Liberdade em *L'Ancien Régime et la Révolution*. *Estudos Históricos*, vol. 17, 1996, p. 99-104, 111-112.

[73] 'To refer to Europe as an *ancien régime* or semi-feudal society is to ratify the assumption that the forces and institutions of permanence were on the verge of collapse. It is obvious that such labels and images represent a retrospective inference, and that the choice of one of these sets is a historical judgment.' MAYER, Arno. *A Força da Tradição*: a persistência do Antigo Regime. São Paulo: Companhia das Letras, 1987, p. 16.

[74] JASMIN, Marcelo. Historiografia e Liberdade em... p. 96. In another passage, Jasmin emphasizes: 'Tocqueville's history-study, by thematically outlining it objects and going beyond the narrative discourse of events, proposes a broad set of theories that enable a general reflection of politics regardless of the specific context in which they originate. [...] a significant part of the conclusions of Tocqueville's historiography results in a political science that, although formulated from a particular experience, aims at universality of theoretical abstraction.' (p. 98) Also: 'The historical conception of *L'Ancien Régime* consistently upholds the notion of a secular historical process that subsumes the totality of the forms of the modern Western states to the same principle of development and the same direction'. (p. 105) See also: ALEXIS DE TOCQUEVILLE. *O Antigo Regime e a Revolução*... p. 65-58. 138-150. My argument about the meaning of authenticity and historical anachronism became even more influenced by the reading of: HESPANHA, António Manuel. *Caleidoscópio do Antigo Regime*. São Paulo: Alameda, 2012, p. 7-40.

history. Which makes me think that more relevant than indexing thematic permissions, than authorizing or disallowing a certain use of the term, a History of Corruption should primarily contribute to reflecting on historiographical practice.[75] It may be that, by replicating this model of a Revolution and its Old Regime to an even more distant past than the 18th century, we will act like revolutionaries of the 1790s, who sometimes eclipsed the historical depth[76] of the world around them.

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[75] When placing such emphasis on historiographic practice, I am not just referring to a conceptual problem, but truly to a heuristic one, which concerns the long path that goes from reading historical sources to drawing conclusions, cf. FERNANDES, Alécio Nunes. *Corruption, for whom? What the sources say, what historians see*, this volume.

[76] CAIANI, Ambrogio A. Re-inventing the Ancien Régime in Post-Napoleonic Europe. *European History Quarterly*, vol. 47, n. 3, 2017, p. 439.

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# Between law and history

a study of corruption in the Byzantine Empire
through Justinian's Digest (6th century)

RENATO VIANA BOY[1]

The problem of corruption, in its broadest sense, is a topic that is the subject of scientific reflection in different fields of knowledge. Understanding the misuse of public spaces, goods, and institutions in favour of specific individuals or groups, the deviation from or transgression of norms, has instigated us to reflect on the issue in the medieval period as well, in chronological contexts that are more distant from the present. Would there be the same legal or normative perspective to find not only an understanding of what a corrupt action was in the Middle Ages, but also how the societies of that extended period of the past tried to combat it, whether in the legal or political spheres, or both?

It is important to point out that the term 'medieval', although it is commonly used to appoint a sub-area of historical studies, is not very precise. It refers to a gigantic area, both in the chronological sense, encompassing around a thousand years, traditionally marked in historiography between the 5th and 15th centuries, and in the geographical sense, covering spaces on three continents. For this reason, understanding what corruption is and how it was perceived and combated in the Middle Ages has different sides, specific and unique to each space, society, normative code, and chronological section.[2]

For this study, we will endeavour to analyse a document that is well known and studied in the historiography of the Byzantine Empire, but which still deserves reflection on the issue of corruption. This is the Digest, a code of laws organized during the government of Justinian (527 to 565), which brought together an

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extensive compilation of legal texts from the Roman Empire, published in 534, with the aim of unifying the laws of the empire, whose government structure had been concentrated in the city of Constantinople since the 5th century.

We therefore aim to understand what is meant by corruption in the Digest, during the rule of Justinian, Byzantine emperor of the sixth century, through an analysis carried out in two stages. In the first, taking the code as an official norm valid for the entire Byzantine Empire, we will try to extract from the text of the Digest some examples understood there as corrupt actions, as well as trying to verify how these actions were to be detected and later punished. The second movement is more complex, but it is where the main hypothesis of this study lies. It is possible to say that the Digest represented Justinian's search for a normative unity in the Empire that would enable the emperor to exercise his autocratic power from Constantinople throughout the imperial spaces. Two questions then arise that will guide our reflection: was the mapping of what is considered corruption in the text of the code, and its subsequent punishments, aimed at combating and punishing threats to a collective political body, to a broad imperial community, in favour of the public good (whether in the material, institutional or even cultural sense), belonging to an extensive group of citizens of the empire? Could the normative definitions of corruption in the Digest, together with the fight against corrupt groups and actions, be understood as a way for the imperial government to further centralize its political power? In this second hypothesis, the corrupt actions and their eventual punishments set out in the Digest could be understood not only as the defence of the public good - of what belongs to the community and needs to be protected from the interests of groups or individuals - or the insight into what corrupts the norm. We believe it is possible to consider corruption and the laws that define it as a form of protection, not only of what is public, but also as an instrument in the exercise of Byzantine political power against those who could, by their actions, undermine political unity and, with it, the empire itself. In other words, we intend to analyse the extent to which the understanding of corruption in the text of Justinian's code concerns the defence of what is collective, communal, but also the defence of imperial power, understood as the centre of Byzantine political authority, which aimed to uphold a cohesive and uniform power within its borders in the 6th century. In short, it would be a way of dealing with internal threats.

## I.

Firstly, to substantiate the arguments of our initial hypothesis, it is important to understand how, when and in pursuit of what objectives the Digest was compiled. Traditional historiography commonly argues that one of Justinian's main objectives during his extended period in power was to seek a so-called unity for the Byzantine Empire in the sixth century. This unity involved a religious defence of Christianity, based on a conciliar orthodoxy, through wars carried out over almost two decades, which resulted in the recovery of some important territories in the Mediterranean (North Africa, Italy, and part of the south of the Iberian Peninsula), and legal unity based on the compilation of rules gathered in the Digest. In this sense, among his best known and most studied achievements are the so-called Wars of Reconquest or Restoration, against Vandal and Goth populations in the west, and against Persians on the eastern frontiers. Also noteworthy in the religious field were the reconstruction of the Hagia Sophia cathedral after the Nika revolt (in 532), the closure of the Academy of Athens and the meeting of the Fifth Ecumenical Council of the Church, the second held in Constantinople in 553. Finally, Justinian also codified Roman law during his rule. Among the actions on these three fronts, it was the wars that received the most attention from researchers dedicated to the period.[3]

As the, we will endeavour to reflect on corruption from the text of the Digest, whose compilation work Justinian would have started while still co-emperor, working alongside his uncle Justin, who held power between 518 and 527. This involved the compilation of ancient Roman laws, both in Latin and Greek, to form a large unified legal code that was to govern the laws and norms throughout the Roman imperial extension of the High Middle Ages, from the 6th century onwards.

The search for imperial legal unity was part of Justinian's aim to build unity in the Empire, to make the exercise of centralized authority over a population of different origins more effective. This so-called unity was aimed at strengthening a government that could exercise its authority over a population that had the same Christian religion (within orthodox and conciliar principles), that had political unity, a common language and, in the same way, that could be governed by the same legal code.

The Digest was an extensive and complex compilation of laws of Latin and Greek

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[3] See, for example, CAMERON, Averil. *Procopius and the Sixth Century*. London: Duckworth, 1996; EVANS, James Allan Stewart. *The Age of Justinian*. The circumstances of imperial power. New York: Routledge, 1996; MAAS, Michael. *Age of Justinian*. Cambridge, 2005.

origin, bringing together documents of a normative nature, originally published between the 1st century BC and the 3rd century AD. The compilation process, which began in 527 under Justinian, was published for the first time as a single document in 530. On this point, Roger Scott casts an important and questioning eye on the historiography that highlights the campaigns of the so-called Wars of Reconquest during Justinian's rule. For this historian, the political and religious unity of the Empire was Justinian's main objective, as we can see from his other actions. Scott argues that the organization of a normative code was on the agenda of Justinian's government, rather than the wars in the Mediterranean.[4] In the same vein, in this work we will give great prominence to the Digest, since it was the emperor's first major project.

The importance of Justinian's normative compilation work is so far-reaching that it goes beyond the Byzantine territorial and chronological limits of the sixth century. For example, it is possible to find principles from Justinian's codes in Iberian normative formulations from the 12th century, as Carlos Garriga points out.[5]

Given the length of the Digest, we have selected some passages from books I, III, IV, XXXVIII, XLI, XLIV, XLVII, XLVIII and XLIX. These are excerpts from laws relating to the problem of corruption, in which we see the presence of similar terms to the modern understanding of corruption, such as 'fraud' and 'encroachment '. Let us move on to some brief reflections on the text.

In Book I of the Digest, we find a definition, albeit brief, of what public law would be, that which is of interest to a community, different from private law, which is also dealt with in the text. Public law is that which respects the establishment of the Roman commonwealth, (...). Public law covers religious affairs, the priesthood, and offices of state" (Digest, I, 1, 1). Still in Book I, the text defines what jus civile, or civil law, would be, as "what is in the interest of everyone, or a majority in each *civitas*, it is civil law (*jus civile*)" (Digest, I, 1,11). In other words, the compilation opens with the subtitle "Justice and Law", whose definitions concern the care or defence of the public good, of what belongs to everyone, to the community of citizens of the empire. There are no references, therefore, to law or justice as a defence of imperial power or the person of the emperor.

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[4] SCOTT, Roger. *Byzantine Chronicles and the Sixth Century*. London: Routledge, 2012.

[5] GARRIGA, Carlos. *Crimen corruptiones*. Justicia y corrupción en la cultura del *ius commune* (Corona del Castilla, siglos XVI-XVII). *Revista Complutense de Historia del America*. N. 43, 2017, p. 26.

As the aforementioned, Roger Scott draws attention to the problem of giving prominence to Justinian's wars, since, in chronological terms, his first actions were linked to the search for Christian religious and legal unity in the empire, through the codification of Roman laws in the first five years of his rule, the reconstruction of the Hagia Sophia cathedral and the closure of the Academy of Athens.[6] In historiographical terms, the prominence that the wars achieve in the interpretation of the period is probably due to their results, their duration (especially in the case of the Gothic War in Italy), rather than Justinian's initial pretensions when he assumed the imperial throne.   In other words, we can say that although the wars in the Mediterranean took up a large part of the Empire's time and resources during Justinian's time, they were not a priority in the early years of the emperor's rule.

Clarification is needed to study the relationship between the Byzantine imperial power's exercise of authority and the anti-corruption proposals found in the Digest. It is important to mention that, in the period of Justinian's rule, the Byzantine imperial power was the highest degree of political power in the empire. The imperial government, as an abstract sphere of public authority, was above the person who held office. This caveat is important to emphasize that our hypothesis is not based on a personalist perspective, which would tend to interpret Justinian's actions as the result of a voluntarism that placed him above the institutions. The nature of the government he exercised was a construction, or normative organization, which, although it manifested itself through the voice of the emperor, including in relation to acts of corruption, the scope and duration had to exceed the person of the emperor. Although these laws allowed Justinian to exercise his power, they had to serve any emperor.

 With that said, let us look at some examples in which we can see the exercise of power as the greatest legal authority, and how we can understand in these excerpts from the Digest, Justinian's search for a normative unity that would allow the emperor to keep political and legal control in the Byzantine Empire by combating corruption.

## II.

Book XLVIII of the Digest, "The Lex Julia on Electoral Corruption", raises concerns about corruption right from its title. In it, there are some passages that point to the

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[6] SCOTT, op. cit., VI, 7.

imperial power's control over the normative code. This section of the Digest begins with the following excerpt, taken from Modestinus' book, On Punishments: "This law is nowadays of no effect in Rome, since the creation of magistrates is a matter for the attention of the emperor and not for the favour of the people" (Digest, XLVIII, 14, 1). This clipping leaves no doubt that the choice of the empire's magistrates is a matter for the emperor, a right exercised directly by him. This means that it was the emperor who handled deciding which individuals would guide legal matters and, consequently, judge and condemn those who deviated from the norm, or corrupted the laws. In other words, it was the emperor's responsibility (and control) to appoint magistrates who would take care of the empire's normative issues.

The emperor's control over the legal apparatus of the Byzantine Empire was not unique. It is important to remember that, in his role as supreme authority, the emperor also appointed army generals and ecclesiastical dignitaries of the Orthodox Church of Constantinople, including the patriarch himself. As such, authority over the legal body was not special and should be seen as a manifestation of one of the emperor's other arms, to prevent dissent and ruptures within the Byzantine Empire in the High Middle Ages.

In the case of the corruption of judges, the same book XLVIII provided for punishments if they went against the directives of the empire and therefore of the emperor: "Also if a judge neglects the imperial constitutions, he is punished" (BOOK XLVIII, 10 - 1).

Book XLVIII is not the only one in which we find passages expressing the imperial power's desire to control institutions and people with legal responsibilities. In Book IV, in a passage taken from the Edict of Ulpianus:

> 3. There are also others who are not compelled to make an award, for example, a corrupt arbiter or one whose behaviour is obviously scandalous. 4. Julian says that if the parties have attacked a reputation of an arbiter, the praetor ought not in all circumstances to excuse him from acting but only on cause being shown. 5. The same writer says that if the parties after rejecting the authority of the arbiter and resorting to the court, or another arbiter, then returned to the original arbiter, the praetor ought not to compel him to arbitrate between persons who have insulted him by spurning him and going to another (Digest IV, 8, 9-11).

In this instance, above the judge, there was the praetor, who was a magistrate chosen directly by the emperor. It is therefore understandable that the action of the

arbitration of judges in legal matters would be under the surveillance of the imperial power, through its praetors. Aforementioned, this would also apply to the actions of corrupt or corruptible judges. This is yet another example of the emperor's power showing its control and reach over the empire's legal institutions.

And when the outcome of legal disputes was influenced by the decision of a judge corrupted by the winning side, the sentence lost its value, as described in Book XII of the Digest, also taken from an edict by Ulpiano:

> Indeed, it has been held that a condictio lies where, when I have a winning cause of action, I pay to make the judge pronounce in my favour. However, then the payer commits an offense (for he corrupts the judge), and not so long ago our emperor held that he loses his case (Digest, XII, 5, 2).

The decision not to confirm the sentence of a judge who has been corrupted comes directly from the imperial power. Even though it is a normative determination, it is worth noting that the origin of the fight against the corruption of judges, in cases like this, is the determination of the emperor, as the supreme authority through the normative code. In cases like the one above, there is a double problem with corruption: the corrupted judge and the individual who corrupts him. The emperor's action, deciding the course of the trial in a single act, punishes both the corruptor, who loses the case, and the judge whose decision is overturned by the emperor's determination. From our analytical perspective, there is a control of Byzantine imperial power, constituted by law, preventing the corruption of judges from resulting in a decision based on an illicit action or, as the text says, "an offense". From this we can also understand that this control over the corruption of law enforcement agents places imperial power, at least theoretically, above the personal decision of judges corrupted by one of the parties.

There are also passages that condemn the individual who tried (and eventually succeeded) in corrupting a judge. Returning to Book XLVIII, a passage from Marciano's *Institutas* stands out:

> The penalty of the lex Cornelia is imposed on a person who with malicious intent conspires for the giving of false witness or the delivering one after another of false evidence. 1. Again, he who takes money for giving advocacy or evidence or makes an agreement [or] forms a conspiracy to ensnare the innocent is punished under the senatus consultum. 2. Also, if anyone takes money for renouncing or withdrawing evidence or for giving or withholding [evidence], he is subject to the penalty of the lex Cornelia. So also, is [the

person] who corrupts, or provides for the corruption of, a judge (Digest XLVIII, 10, 1).

The punishment stipulated in the Digest here extends to anyone who corrupts a judge or tries to falsify testimony or evidence in exchange for money. The text places on the same level of corruption the deviation in the exercise of law and justice, made by the corrupted judge, and that of the evidence and testimonies that instruct the process. Punishment is set up for both cases. And in Book XLIX, in Ulpiano, we find a complement that falls on the one who corrupts a witness: "The position of one who has corrupted his informer is such that he is regarded as having lost the action; for it is so laid down in cases touching the imperial Treasury (Digest LXIX, 14, 29).

Still about the corruption of judges, in the *Vistas* of Paul, the Digest states that: "If judges delegate are alleged to have been corrupted with money, they are generally either removed from [their] court or sent into exile or relegated for a fixed period by the governor" (Digest XLVIII, 19, 38).

In these last two excerpts, we see the imperial power seeking to control the corruption of judges during trials under Roman law. There is a concern to prevent the purchase of judges from deciding the course of the dispute. However, in preventing this from happening, the imperial power tries to exercise control over both the magistrates of the empire under its tutelage and the choice of praetors, while threatening to punish those who, in the context of a legal dispute, try to corrupt justice through illicit means and bribes.

The action of the imperial power in these cases is made explicit in Book XLVIII, in the same *Institutas* of Marcian, where any forgery would be punished directly.

> 9. A man is liable to the penalty for forgery for this reason also (as the deified Severus and Antoninus also laid down), so that tutors and curators and those who have laid down this duty but have not restored [to the pupil or ward] their tutory or curatory cannot come to an agreement with the imperial treasury, and if anyone contrary to this law cheats the prefects or the state treasury he is punished in exactly the same manner as if he had committed a forgery. 10. This does not, however, apply (as those same emperors wrote in a rescript) to those who have done such acts before taking up a tutory; for [the emperors] have not accepted their excuses but have barred [accusations of] fraud. 11. The same emperors wrote in a rescript that a man who has not yet rendered the accounts of his tutory or curatory must not come to an agreement with the imperial treasury only if the person whose tutory he has been administering is alive; for if he has died, it is lawful for him to come to such an agreement, even if he has not yet rendered his accounts to the heir (Digest XLVIII, 10, 1).

According to Roger Scott, Justinian's first goal in government was to unify the empire, both in the Christian religious field and in the legal and normative field.[7] From our analytical perspective, this legal unity, in addition to organizing and compiling Roman laws and normative codes from much earlier periods, also favoured the strengthening of imperial power. This is why we believe that the fight against corruption in Justinian's Digest, in addition to the organization and legal unity, also fostered the centralization of power from Constantinople.

Imperial control over corruption, based on the Digest, was not restricted to citizens and free individuals. The code also contained punishments for deviations from the norm practiced by slaves. Let's look at a passage from Book II, taken from Ulpiano:

> I do not consider the following pact impossible in the contracts of deposit, loan, hire, and other similar contracts: "that you do not make my slave a thief or a runaway," that is, "that you do not instigate him to become a thief or a runaway, that you do not neglect the slave so that he becomes a thief." For just as the action for corruption of a slave lies, so also can this agreement concerning the prevention of corruption take effect (Digest II, 14, 50).

It cannot be stressed enough that, unlike modern societies and especially those organized after the bourgeois revolutions of the 18th century, in the Byzantine Empire of the 6th century, legal and political issues were inextricably linked to religious elements of Christianity, in a kind of syncretism between the political and the religious, or the legal and the Christian. Separating these aspects today only serves specifically historiographical demands.[8]

In this sense, passages on corruption in the moral sense, and of a morality linked directly or indirectly to Christian religiosity, may also be present in the code. Could it therefore be possible to think of the fight against corruption, in the religious moral sense, as an extension of the imperial arm over the behaviour of subjects who should not be corrupted, for the sake of the unity and cohesion of the Byzantine Empire? Let's look at some brief examples.

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[7] SCOTT, Roger. VI - Chronicles versus Classicizing History: Justinian's West and East. In: SCOTT, Roger. *Byzantine Chronicles and the Sixth Century*. London: Variorum/Asghate, 2012.

[8] On this syncretism between the Christian religion and Byzantine imperial politics in the High Middle Ages, I refer to a paper of mine: BOY, Renato Viana. Circulação, recepção e usos do Cristianismo no Império Bizantino tardo-antigo: um estudo de caso. *Historias del Orbis Terrarum*, número 26, 2021, p. 33-55. Available at: https://historiasdelorbisterrarum.files.wordpress.com/2021/08/07.-renato-viana-boy-circulacao-recepcao-e-usos-do-cristianismo-no-imperio-bizantino-tardo-antigo.pdf. Accessed: September 6, 2023. Also see: BOY, Renato Viana. Para além da divisão entre ocidente e oriente: a circulação do poder imperial de Constantinopla no Mediterrâneo tardo-antigo – séculos IV a VI. In: FRANCISCO, Hector; LAHAM COHEN, Rodrigo; UBIERNA, Pablo (Orgs). *Ascetismo y Santidad en el Cercano Oriente Cristiano (Siglos IV-XIII)*. Buenos Aires: IMHICIHU – Instituto Multidisciplinario de Historia y Ciencias Humanas de Buenos Aires, 2022.

The first passages are from Book LXVII, chapter 11, entitled "Extraordinary Crimes". In a passage taken from Ulpian, we find the following order, prohibiting meetings of groups of people motivated by some type of religious cult: "Not even veterans are allowed to form illegal gatherings under the guise of religion or of fulfilling some vow." (Digest XLVII, 11, 2). In the same chapter of Book LXVII however, there is another passage that prohibits morally reprehensible acts as crimes to be fought against:

> Those who intrude upon or disturb the marriage of others, even if they cannot be charged with a particular crime, are punished by extraordinary process by reason of their proclivity for base desires. 1. It is an affront contrary to sound morals when a person showers another with excrement, smears him with mud and filth, defiles waters, water pipes, or a lake, or contaminates anything to the detriment of the public; against such persons, stem action is taken. 2. One who persuades a boy, abducted by himself or by a corrupt attendant, into indecency or who solicits a woman or girl or does anything for the purpose of impurity or who offers a gift or a reward whereby to induce indecency will, if the offense be complete, suffer capital punishment; if it be not fully effected, he is deported to an island. Corrupt attendants undergo the supreme penalty (Digest, XLVII, 11, 1).

In Book XLVIII, we also find a normative defense regarding underage virgins: "Those who seduce underage virgins, if they are of lower rank are condemned to the mines, if of higher status, relegated to an island or sent into exile" (Digest, XLVIII, 19, 38).

Issues considered to be immoral, indecent, or impure are treated in the code as the actions of corrupt people. In the following passage from the same book, taken from the Rules of Marcian, we find the legal prohibition of abortion. In this case, the action of the political authority should focus on the woman:

> In a r*escriptum,* the deified Severus and Antoninus (Caracalla) said that a woman who procured an abortion for herself should be sent into temporary exile by the governor; for it would appear shameful that she could with impunity deprive her husband of children (Digest, XLVII, 11, 3).

In this passage, the legal prohibition is accompanied by a moral explanation, whose "shame", in the event of omission by the political authority, could directly affect the husband of the "offending" woman. Along the same lines, we find another extract in Book XLVIII:

> Those who administer an abortifacient or aphrodisiac draught, even if they do not do so with guilty intention, are still condemned, because the deed sets

a bad example, if of lower rank to the mines, if of higher status to relegation to an island with the forfeiture of part of their property. (Digest XLVIII, 19, 38).

The formation of a certain type of family nucleus, based on socially constructed moral principles, provided the imperial power with yet another opportunity to strengthen and centralize its power, by meddling in a matter that only concerned the private sphere. Following the current interpretation of historiography, which identifies this period as the formation and defence of Byzantine Christian and legal unity, we would like to point out that the way in which the central power modulated certain laws served to give an appearance of cohesion and unity to society, while at the same time promoting recognition of the emperor's authority.

Regarding moral principles in the Digest, a clarification is in order. We are not treating the conception of this code of laws as an "intrusion" into issues linked to individual behaviour, or that of small groups. In other words, we are not talking about the advance of the public sphere over the private sphere, a perspective that could easily lead to the conclusion that such behaviour could not be regulated by imperial laws and therefore could not be considered corruption either.

As we have already mentioned, the explanation lies in syncretism. Considering that the Byzantine Empire, as a continuation of Roman history during the medieval period, was a political body whose official religion had been Christianity since the end of the 4th century, issues linked to behaviour morally contrary to this spirituality were not restricted exclusively to the religious, ecclesiastical, or even private sphere. On the contrary, as an officially Christian empire, and with this creed as a basic component of medieval Roman (or Byzantine) identity, it was not strange for the Digest to legislate on moral behaviour from the prism of the corruption of the Roman norm. If religion is a foundation that directly integrates and interests the Byzantine Empire, religious or moral deviations linked to Christianity (or developments of its spirituality) were treated, in Justinian's time, as corruption, as crimes against imperial power and even against the empire. They thus acquired a legal guise. These passages, like the ones quoted above from the Digest are not strange. On the contrary, they constitute an important part of the logic of the defence of a certain model of the social body, which politically was under the protection and observation of the emperor of Constantinople.

Control also took place in the case of corruption and moral deviations practiced by slaves or servants, as this passage from Book I shows:

> When a governor is conducting a hearing into a case of corruption of a slave or of debauchery of a serving maid or of buggery of a slave, if it should be alleged that the slave-overseer of some absent person has been corrupted, or a slave corrupted who is of such a kind that the matter extends not simply to the hurt done to the essential quality [of that slave] but to the perversion of the whole household, then he ought to take a very severe view of the case (Digest, I, 18, 21).

The corrupt acts of an overseer, slave or even a servant, including those that could be classified as moral in nature (debauchery or sodomy), will not be judged only by the actions of the accused, but as "perversion of the whole family". This allows us to consider that the emperor's control and authority over his subjects also extended to their slaves or servants.

However, slaves, as individuals, were also subject to the punishments in the Digest in the event of corruption. We find an example of falsification of documents, testimonies, evidence, corruption of judges, in the Book XLVIII, applied directly to slaves, and not to their owners: "and if a slave commits any of these [offenses], it is ordered that he suffer the extreme penalty" (Digest, XLVIII, 10, 1).

If imperial authority sought to impose itself on free citizens in relation to their slaves and servants, the same did not apply to heirs. In a passage from Book LXIX, also taken from Ulpiano, dealing with the corruption of an informant during a lawsuit, the text of the Digest reads:

> But the preferable opinion is that this penalty is applicable against the man himself who has bought off his accuser; for the rest, it ought not to descend against his heir. For the action does not expire from the time when it was bought off or a condemnation appears to have been made, but there must first be agreement on the charge, and judgment must be given. (Digest, XLIX, 14, 29).

The code also states that, in cases of corruption in which a court ruling needs to be reviewed and the corruptor has already died, even if there is a conviction, the penalty does not apply to the heir:

> Clearly, if an action should happen to be raised about a case that needs to be started afresh, on which judgment has once been given on account of the corruption of the informer, the death of the corrupter will not hinder the possibility of raising the action and of the case being started afresh; for here it is the case that is being reinstated, not the penalty. (Digest, XLIX, 14, 29).

Finally, still in Book XLIX, the Digest stipulates that heirs are not liable for obligations not fulfilled during the lifetime of the deceased:

> Obligations, which someone by entering on [an inheritance] extinguishes by merger, are not restored; for our emperor and his father wrote in a rescript in the case of a man who, after entering on an inheritance, failed to avenge the death of the deceased, that obligations once merged are not revived. (Digest, LXIX, 14, 29).

In other words, the heirs of someone who corrupted the judge with a bribe were not subject to the legal penalties, although the cases could be revisited even after the corruptor's death. It also stands out, as the last passage shows, that the judicial obligations of a deceased person are not passed on with the inheritance but cease with their death. It should be noted here that the normative text was drawn up from a *rescriptum* of the imperial power itself, which reinforces the authority of the Constantinople government acting directly in the control of legal processes.

**Final notes**

We aim in this brief study to present some notes on the incidences and provisions for combating corruption in the Digest, the legal code gathered and organized during the first years of Justinian's rule in the 6th century. From our research perspective, we believe that the fight against corruption in this normative code had the main objective of creating the legal unity of the Byzantine Empire in the High Middle Ages. In addition, we believe that the fight against corruption in the Digest was not just a way of judging and punishing actions that corrupted the norm but can also be understood as an instrument that aided the exercise of a strongly centralized political authority in Constantinople. The excerpts highlighted from this compilation of Roman laws indicate that, in seeking to combat actions indicated as corrupt and corrupt individuals, there was indirectly a concern for the emperor's control and authority over his population. In other words, the search for unity was made possible by the normative cohesion of the Byzantine Empire in the 6th century, but with a focus on the effective exercise of imperial authority over an ethnically diverse population, in a period of military expansion of borders across the western Mediterranean.

Justinian's own initiative to organize and give legal unity to the empire during his rule can be understood as an indication of this project to make political control of the government more viable and effective. The search for Christian religious unity in the

same period can also be understood in this way, although this was not the focus of this study.

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# Corruption in the Middle Ages and the problem of simony

CHARLES WEST[1]

To talk of corruption and the problem of simony is, in the first place, to make an obvious point. Simony can be broadly defined as the illicit purchase or sale of ecclesiastical office, and of things linked to that office. As such, it was a form of corruption that was perceived as a problem by contemporaries in medieval Europe.

That perception has, of course, its own history. It is well-known that in the Latin West, the anxiety around simony intensified markedly in the eleventh century, in association with the so-called Gregorian reform movement. Arguments involving simony became especially fraught from the 1050s, when they moved to the centre stage in debates about the papacy and the church, in part because of renewed theological concerns about the validity of the sacraments performed by simoniacal priests. At least, that is what I have argued elsewhere, though other historians prefer to see this particular historical phase starting a little earlier, in the 1030s.[2]

In any case, that was simply one moment in simony's long history. Prohibitions on the sale of ecclesiastical office go back to the early days of the church. In the late sixth century, Pope Gregory the Great elaborated these prohibitions into a special kind of heresy, associated with the biblical figure of Simon Magus who had tried to purchase the power to work miracles from the Apostles.[3] Expanding the concept of simony, Gregory identified three routes or pathways through which it could occur: acquiring

church office through gifts, through favour, and through flattery.[4] This perspective was widely adopted, and became extremely influential throughout the Middle Ages.

The twist to all this is that gift exchange and the acknowledgement of reciprocity was a fundamental part of post-Roman social norms and mores. To demand that an appointment to a prestigious and important office, such as becoming a bishop, should not be accompanied with visible and tangible demonstrations of appreciation and gratitude, and should not even form part of an ongoing reciprocal relationship, therefore clashed with deeply-rooted expectations. That meant that the complete elimination of simony was, in reality, more or less impossible: it could only ever be an aspiration.

It was precisely its nature as a problem that could never really be solved that made simony so productive and dynamic. It was a moral norm that was both urgent and unachievable, both essential and out of reach. As a consequence, in the right environment, it was a valuable potential weapon to use against one's enemies, since nearly everyone could be found guilty if one investigated thoroughly enough (and indeed, we know of over 100 named people who were accused of being simoniacs in the tenth and eleventh centuries).[5]

This is the obvious way, then, in which simony was a problem: an action that was widely acknowledged as a misdemeanour, a sin and even potentially a heresy, but that was also a reflection of normal and deeply anchored social interactions, and thus impossible to eradicate completely from society. All this is familiar to historians, though recent work continues to refine and improve our understanding.[6]

However, in discussing 'corruption and the problem of simony', I also have a second, more methodological issue in mind: the way in which simony is a problem, or perhaps an opportunity, for how we think about corruption, today. It is on this question that this chapter concentrates.

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[4] GREGORY THE GREAT. *Homiliae in evangelia*. Ed. Raymond Etaix. Corpus Christianorum Series Latina. Turnhout: Brepols, 1999, p. 31, 'Quia aliud est munus ab obsequio, aliud munus a manu, aliud munus a lingua'.

[5] For the estimate, see SCHIEFFER, Rudolf. Geistliches Amt und schnöder Mammon. Zur Bewertung der Simonie 4im hohen Mittelalter. In: PETERSOHN, Jürgen (ed.). *Mediaevalia Augiensia. Forschungen zur Geschichte des Mittelalters*. Stuttgart: Jan Thorbecke Verlag, 2001, p. 359–374.

[6] For instance, GEIS, Lioba. Kirchenrechtliche Norm und diözesane Praxis. Strategien des Umgangs mit Simonie im frühen 11. Jahrhundert'. In: BIHRER, Andreas; BRUHN, Stephan (eds.). *Jenseits des Königshofs. Bischöfe und ihre Diözesen*. Berlin: De Gruyter, 2019, p. 177–209, and her forthcoming book, *Moralische Ökonomie und kirchliches Amt. Simoniediskurse im frühen Mittelalter (600-1050)*; and work by Leandro Rust, including his contribution to this volume.

## I.

The modern study of corruption is a flourishing field of research, because corruption is widely identified as a key social problem afflicting the world we live in today. Much of this research is carried out within the social sciences, but the history of corruption has by no means been neglected. A great deal of important and interesting work has been written about it. However, when one looks closely, these histories of corruption usually have something in common: they are implicitly secularist in how they frame their subject. By this, I mean that they approach corruption through the lens of modernisation and of the modern state.

To illustrate this point, let us look at a recently published book on corruption in early modern England, *Trust and Distrust*, written by Mark Knights. Let me begin by emphasising that this is a superbly researched and stimulating work, which makes a major contribution in integrating the British Empire into the historiography of modern corruption. On the basis of huge amounts of archival work, Knights shows how rules around public office-holding in Britain were significantly developed in the context of the East India Company, whose agents raised vast fortunes abroad and then sought to use this wealth for the political ambitions at home, which drew criticism.

However, beyond these important empirical findings, what strikes the medieval historian is the basic contrast around which these findings are framed. The book tells of how corruption moved from being a vague, background religious concept to take on a much more specific, foregrounded secular meaning. On the first page, Knights sets out a straightforward 'before and after':

> "In 1600, corruption was primarily seen in religious terms, meaning original sin or sinful behaviour."
> …"By 1850 corruption tended to mean financial and political corruption, embezzlement or abuse of public funds, venality, the abuse of office for private gain, breach of trust. Corruption had acquired a more specific sense, closely related to office."

The focus on office here is valuable and important. While there are many approaches to corruption, concentrating on office helps us distinguish corruption from other forms of injustice. After all, not all perceived abuses and misuses of power are "corruption", and a tighter definition helps both enquiry and comparison. In fact, Knights goes further, and draws on recent research that frames corruption as specifically the misuse of entrusted power: power that is given with strings attached,

so to speak. As a result, the history of corruption is therefore also a history of how office-holding is imagined, and how the rewards and responsibilities it entails are balanced.

However, contrasting the religious meanings of corruption with the history of office-holding raises the question of religious office. How does that fit into the history of corruption? Knights does mention this, but only briefly, and only in order to exclude it: 'Religious office is another category that has an interesting history in which accusations of corruption were made, but lack of space means that it will be only tangentially treated in what follows.'[7] This comment is tucked into a footnote, as marginal or 'tangential' to the story the book is telling.

## II.

In practice, in histories of corruption, entrusted power often seems to boil down to public office, and corruption is thus chiefly understood as relating to the state. This has two unfortunate side-effects.

The first is that it can lead to the marginalisation of the Middle Ages within discussions of corruption, on the commonly-held (but oversimplistic) grounds that this was a period that supposedly preceded the public state, and thus knew little of the notion of public office. This helps explain why, until surprisingly recently, indeed as late as the 1990s, there was little work on corruption in the Middle Ages, as Leandro Rust has noted in his recent historiographical review article, describing it as 'uma história em branco' (a blank history).[8]

In this context, it is often noted that there is no ancient or medieval word for "bribe"; it is also often noted that gifts were a fundamental part of how medieval society worked (indeed, I made that point just a few moments ago).[9] This connects in turn to a long tradition of seeing medieval power as auto-legitimising and unaccountable, an approach often encapsulated in English through the term 'lordship'. The fundamental meaning of lordship is to describe a form of power that is distinct from office, and in which there seems little conceptual room for corruption. Lordship

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[7] KNIGHTS, Mark. *Trust and Distrust:* Corruption in Office in Britain and its Empire, 1600–1850. Oxford: Oxford University Press, 2021, p. 49, n. 64.

[8] RUST, Leandro. A "corrupção" na escrita da História Medieval: os desafios de um efeito de sustentação discursiva'. *História da Historiografia* 15 (2022), p. 201-230.

[9] For the point about bribery, see HILL, Lisa. Conceptions of Political Corruption in Ancient Athens and Rome. *History of Political Thought*, 34, No. 4 (2013), p. 565–587.

is, in a way, corrupt power already. Looking for corruption in the Middle Ages, in this perspective, is like looking for abuse of power in the working of drug cartels: it is everywhere, and thus nowhere.

Yet, as a matter of empirical fact, there absolutely was corruption, or more accurately, accusations or intimations of corruption, in secular government in the Middle Ages. This is perfectly well known to medieval historians, of course, but let me nevertheless offer three brief examples to demonstrate this point.[10]

In the year 433, Bishop Cyril of Alexandria mounted an extraordinary campaign to bribe the imperial court to win their backing in a dispute.[11] He sent nearly a metric ton of gold to nineteen named officeholders, with careful tabulations as to who was to get what (along with the gold, the targeted gifts also included precious carpets and ostrich eggs). The huge weight of gold probably represented several years worth of the income of the wealthy bishopric of Alexandria. The catalogue of Cyril's gifts is not labelled as 'bribes'; that, nevertheless, is clearly what they were. Importantly, the gift catalogue is transmitted through texts linked to Cyril's enemies, not to Cyril himself or his supporters. This was not a text that Cyril wished to make public. Lavish gift-giving to win over influential opinion was doubtless completely usual practice in late Rome, behind the scenes; but it was still damaging and embarrassing to publicise it.

From around the year 800, there is the notorious complaint written in the form of a poem by Bishop Theodulf of Orléans in Carolingian Francia.[12] Theodulf was a cleric, but he was writing on the basis of his experience as a roving judicial envoy (a *missus*) in the service of the king. In the poem, he describes all the attempts that were made by plaintiffs to win favourable judgements, and hints that other judges of the time had fewer scruples than he had about accepting what was offered.

As a final example, in the mid thirteenth century, let us turn to King Louis IX of France and his dedicated 'anti-corruption campaigns', as recently studied by William

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[10] Cf. also BOY, Renato Viana. Between law and history: a study of corruption in the 6th century Byzantine Empire through Justinian's Digest', this volume.

[11] On this case, see BEERS, Walter. "Furnish Whatever is Lacking to Their Avarice": The Payment Programme of Cyril of Alexandria. In: MATHEOU, Nicholas et al. (eds.). *From Constantinople to the frontier. The city and the cities*. London: Brill, 2016, p. 67–83.

[12] For contextualisation, see FOURACRE, Paul. Carolingian justice: the rhetoric of improvement and contexts of abuse. In: *La giustizia nell'alto medioevo, secoli V–VIII*, 42 (1995), p. 771–803, and now the monograph by TIGNOLET, Claire. *Théodulf d'Orléans (vers 760-821) - Histoire et mémoire d'un évêque carolingien*. Turnhout: Brepols, 2023.

Chester Jordan.[13] Through these campaigns, the king intended to ensure better governance for his subjects, in part through better and more accountable record keeping, in part through prohibiting councillors from accepting gifts, which the king did in 1254, and in part simply through paying his agents good salaries, to make them less prone to bribery.[14]

In all these cases, we can see criticisms being made, or hinted at, of the abuse of entrusted public power in medieval contexts. It would be easy to adduce more examples, but these suffice to show that there was a good deal of what is recognisably corruption related to state-delegated authority in western Europe in the Middle Ages.

## III.

There is, therefore, good evidence from the Middle Ages for corruption as conventionally understood, relating to the misuse of public office. However, it is the second point that is crucial for this paper: namely, that the secularising drive of much modern corruption historiography overlooks, and indeed actively obscures, a key site for debate about corruption, and a key driver or ideas of corruption, which was the Church, rather than the public state.

To illustrate this point, let me briefly turn to the example of church councils. Church councils were gatherings of bishops and other clergy, and they were an essential part of the running of the church. Held on a regular basis since Late Antiquity, they helped created networks of bishops, and set collectively agreed norms for how bishops should behave. These were important events that shaped a good deal of medieval culture. The written decisions taken at these councils tell us an enormous amount about medieval society, and in many cases durably influenced church law (including the law on the prohibition of the sale of ecclesiastical office, confirmed at the Council of Chalcedon in 451).

However, the written decisions of these councils are not the only texts associated with these occasions. From the seventh century, there emerged special, bespoke liturgies for organising and choreographing the running of these councils. These

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[13] JORDAN, William Chester. Anti-corruption campaigns in thirteenth-century Europe. *Journal of Medieval History* 35 (2009), p. 204-220. For a study of a key figure in this campaign, Étienne Boileau, see JORDAN, William Chester. *Men at the Center*. Redemptive Governance under Louis IX. New York: Central European University Press, 2012, p. 37-70.

[14] Cf. TORRES, Armando. 'Lesser and corruptible: the worth of a humble man's word during the MiddleAges', this volume.

liturgies provided the prayers and readings to be recited, as well as basic instructions for the participants: when to arrive, when to sit and when to stand. They were designed to ensure that the councils ran smoothly, and that the Holy Spirit would be present at these solemn and important events. These conciliar liturgies were first developed in Visigothic Spain, but they subsequently spread far more widely, and survive in hundreds of manuscripts from all across Europe, in numerous different versions.[15]

Most of these liturgies included a prayer which we can only define as an anti-corruption measure. It is a prayer to the Holy Spirit, which runs as follows:

> Do not let us be disturbers of justice, You who love equity most of all, so that ignorance does not drag us to the left, nor does favour bend us, nor does the taking of gifts or of persons corrupt (*corrumpat*) us.[16]

Just a little later in the same liturgy, there is an exhortation to all those present, that ran as follows:

> Next with a similar exhortation I demand of you, that none of you in judging should take account of persons or depart from the truth because of some favour or gift.[17]

It is possible that both these passages were originally written by Bishop Isidore of Seville, who died in 636. Whoever their author, they proved wildly successful. For the next half a millennium, almost every church council held in western Europe would have featured a version of this prayer and this exhortation. In other words, every individual bishop, and his clerical attendants, would have knelt or prostrated themselves in prayer on many occasions, listening while these words were publicly recited.

It is therefore worth pausing to consider the semantic field of these short statements, which we can read as clerical definitions of judicial corruption. We see the Latin verb *corrumpere*, here directly associated with bribery; we also see reference to favours, and to 'taking into account personal status' (something we will come back to). Anyone attending a church council would be left in no doubt that corruption was

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[15] SCHNEIDER, Herbert (ed.). Die Konzilsordines des Früh- und Hochmittelalters. MGH Leges. Hannover, 1996.

[16] 'Non nos patiaris pertubatores esse iustitiae, qui summe diligis aequitatem, ut in sinistrum nos non ignorantia trahat, non favor inflectat, non acceptio muneris vel personae corrumpat': *Konzilsordines*, ed. Schneider, p. 178 (with further references in n. 26).

[17] 'Deinde simili vos obtestatione coniuro, ut nullus vestrum in iudicando aut personam accipiat aut quolibet favore vel munere pulsatus a veritate discedat'. Ibidem, p. 180.

unacceptable: that judicial decisions should be swayed neither by favour, gift nor by personal status. Clearly, these prayers are an important part of the history of corruption. And yet to my knowledge, they have hardly ever been studied as such, presumably because they relate to the clerics and the church, not the state.

## IV.

However, it is not enough to note that there was condemnation of corruption within the church from an early date, alongside debates around public office. What makes the neglect of the religious history of corruption in recent work especially regrettable is that, in fact, the religious sphere was where some of the most innovative thinking about corruption took place. And this brings us back to the issue of simony.

One of the points that makes simony of interest for thinking about corruption is how it represents the development of a specific vocabulary for the abuse of entrusted power from the sixth century. There might not have been a specific word for bribe in the Middle Ages, and *corruptio* and *corrumpere* always retained a broad semantic field (though they sometimes certainly meant corruption in a modern sense).[18] But what there was, was a special word for someone who illicitly bought their position in the church. Indeed, from the eleventh century, there was even an abstract noun for the practice: *simonia*. Simony is in this way the specific language for talking about corruption that some people have thought to be lacking from the Middle Ages.

This point can be taken further. Thinking about simony was also a way of thinking about office, and of making arguments about the rightful use of entrusted power – entrusted not by the State, but by God. These arguments and reflections went beyond banal statements that simony was a bad thing that ought to be avoided. They represented debates about office-holding much more sophisticated and complex than anything in the secular arena (where the sale of office was only formally prohibited in the course of the nineteenth century).

As an example, let us look at a text known as the *De Dignitate Sacerdotali*, or in English, 'On Sacerdotal Dignity'. This is not a very well-known work, probably in part because of lingering uncertainty as to when it was written, and who wrote it. It is often attributed to Gerbert of Aurillac, the pope of the year 1000, but this attribution

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[18] For instance, in the Council of Orléans of 533.

is certainly mistaken, since the text survives in several ninth-century manuscripts, and thus must pre-date Gerbert; it is sometimes attributed instead to Ambrose of Milan, but this may be to put it too early.[19] Perhaps the text was written in Late Antiquity; perhaps it is early medieval, even Carolingian, given that is when the earliest manuscripts appear.

Whatever its date of composition, *De Dignitate Sacerdotali* was widely disseminated from the ninth century onwards. It is chiefly a text about the importance of episcopal office, but in the course of exploring this topic, it has some interesting things to say about simony. The anonymous author complains that people are now buying episcopal office with cash (*pecunia*), thereby infecting the body of the church. But he also represents the argument of the simoniac, who says this:

> I was recently ordained bishop by the archbishop, and I gave him 100 solidi so I might deserve to get the episcopal grace. If I hadn't have given it, I wouldn't be a bishop today… I gave the money and I bought the bishopric, but I am confident that if I live, I will get the solidi back. I ordain priests, I consecrate deacons and I take gold, and I expect to profit in cash from the other orders too. See, the gold which I gave away is now back in my treasure chest: I therefore took the bishopric freely.[20]

Was this argument genuinely made? Did anyone really say this? That might seem unlikely, since to modern eyes it seems unconvincing, and certainly the author of the *De Dignitate Sacerdotali* has no truck with it. It might have been simply invented, to show how episcopal simony embeds simony right through the church. Yet on the other hand, we might perhaps take the defence a little more seriously, if we consider that it is making a point about the circulation and exchange of favours, as part of the natural social cycle. Viewing the acquisition of an episcopal office as a one-off purchase was, we might imagine the simoniac saying, taking it out of context – and he had not really had a choice in the matter anyway.

In any case, whether the simoniac's argument was genuine or not is surely beside

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[19] MUNIER, Charles; DE CLERCQ, Charles (eds.). *Concilia Galliae,* vol. 2, p. 99, ch. 3: '…quia sacerdotem nefas est cupiditatis venalitate corrumpi'. For instance, it is attributed to Gerbert, under the title *De informatione episcoporum*, In: WEITZEL, Joseph. *Begriff und Erscheinungsformen der Simonie bei Gratian und den Dekretisten.* Munich: De Gruyter, 1967. For an introduction, see WILLIAMS, George. The golden priesthood and the leaden state. A note on the influence of a work sometimes ascribed to St. Ambrose: the *Sermo de dignitate sacerdotali*. *Harvard Theological Review* 50 (1957), p. 37– 64.

[20] *De dignitate sacerdotali*. In: MIGNE, J.- P. (ed.). *Patrologia Latina*. Vol. 17, cols. 567-580, here at 576: "Ab archiepiscopo sum nuper episcopus ordinatus, centumque ei solidos dedi ut episcopalem gratiam consequi meruissem, quos si minime dedissem, hodie episcopus non essem …. Aurum dedi, et episcopatum comparavi; quos tamen solidos, si vivo, recepturum me illico non diffido. Ordino presbyteros, consecro diaconos, et accipio aurum; nam et de aliis nihilominus ordinibus pecuniae quaestum profligare confido. Ecce et aurum, quod dedi, in meo locello recepi: episcopatum igitur gratis accepi."

the point: what matters is how simony is serving in this late antique or early medieval text as a platform for consideration of what office, entrusted power, actually is, and how it should properly be acquired. Moreover, that consideration included recording, or inventing, counter-arguments, not just restating established norms.

These arguments continued, in interesting and productive ways, later in the Middle Ages. For instance, in the late eleventh century, around 1090 or so, the southern German scholar-monk Bernold of Konstanz dealt with an interesting question: was it simony to buy and sell appointment to a church?[21] Bernold explained that this had never been an issue in the ancient church, since priests had always been ordained to a particular church, and thus had not distinguished between paying for ordination, which was expressly prohibited, and paying for a church to serve. For that reason, there was no traditional canon law that explicitly forbade a priest from paying for a church. Now, however, in Bernold's time, ordination to priesthood and appointment to a church were often divided, so this created a new situation, and uncertainty as to whether this counted as an abuse or not. Contrary to what his correspondent apparently wanted to hear, Bernold argued that paying for an appointment to a church was just as simoniac as paying for an ordination. We see here contemporaries wrestling with how old norms might be applied to new circumstances.

Later, in the later twelfth century, these debates about what constituted simony were still further developed by scholars such as Peter the Chanter, a famous scholar at the University of Paris (+1197). Peter wrote an extremely long and rather technical discussion of simony – or as he sometimes referred to it, 'simoniac corruption' (*symoniaca corruptio*) – that covers a whole range of possible events and occasions.[22] For Peter, not every sale linked to the church was an agent of 'spiritual corruption' (*corruptrix spirituale*); subtle distinctions could and should be made.

For instance, is it simony to pay clerics to sing *laudes* and acclamations, as part of ceremonial occasions such as welcoming kings or bishops? Yes, says Peter, if the acclamations take place inside a church, it is indeed simony; but if the singing

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[21] BERNOLD OF KONSTANZ. *Libellus VIII*: De emptione ecclesiarum. F. Thaner (ed.), *MGH* Ldl 2. Hanover: Hahn, 1892, p. 107-18. For further discussion, see HICKLIN, Alice et al.. *Local Priests in the Latin West, 900–1050*, forthcoming.

[22] PETER THE CHANTER. *Summa de sacramentis*. ed. Jean-Albert Dugauquier. Louvain, 1954–1967, vol. 3, part 2a, 'De Symonia', p. 1-118. For 'symoniaca corruptio', see p. 27. For contextualisation, see BALDWIN John. *Masters, Princes and Merchants*. The Social Views of Peter the Chanter and his Circle. Princeton, NJ: Princeton University Press, 1970.

happens outside the church, then it is quite all right.[23] Is it permissible for teachers to sell their teaching? That, thinks Peter, is acceptable, because, as the Bible declares, the 'worker is worthy of his wages'.[24] What about a clerical community with a particularly irritating clerical colleague, who is 'proud and insolently intolerable' (*superbus et insolenter intolerabilis),* and hated by everyone: is it simony to pay for him to go on pilgrimage to Jerusalem, on the understanding that he will resign his post to do so?[25] No, thought Peter, that was acceptable, as long as the pilgrimage was undertaken for genuine piety on his part, and the payment was genuinely made for the public benefit (*publica utilitas*) of the church.

Over more than a hundred pages, Peter considers these kinds of questions in detail. More examples could be given, but what is interesting for our purposes is to see how simony was a way of thinking about office. As we have seen, accusations of corruption were indeed made in secular contexts, but without the precision of thinking that Peter shows. And it is important to be clear: these are discussions about the abuse of entrusted power, even if the origin of this entrusted power is not public authority as usually imagined, but rather divine authority.

## V.

These ideas about corruption in the religious sphere are significant in their own right, and we do not need to show how they related to the secular sphere to validate that significance. Nevertheless, we might still ask whether there is any evidence for whether this thinking about abuse of office crossed over into the secular realm. Was thinking about clerical corruption contagious, so to speak? The answer is yes, at least sometimes, just as one might expect in a context where the church in a way dominated the public sphere.

I have already briefly mentioned the notion of 'taking account of persons", in Latin *acceptio personarum,* which was referred to in the liturgies of church councils. Its history is of particular interest.[26] It is a biblical phrase, occurring in the Book of Deuteronomy in the Old Testament, and then at several different points in the New Testament. The meaning of the original Hebrew is slightly obscure, but the underlying

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[23] PETER THE CHANTER, Summa de Sacramentis, p. 42-43.

[24] Ibidem, p. 39.

[25] Ibidem, p. 40-41.

[26] See NOONAN, John. *Bribes. Intellectual history of a moral idea.* New York: University of California Press, 1984.

point, much elaborated by St Paul, is of divine impartiality. The idea is that God judges people purely on their merits, not on their 'persona', i.e. their public standing and representation. Earthly judges should follow this model, and should not take into account in the courtroom someone's public standing.

Bishop Isidore of Seville was very interested in this concept in the seventh century, and treated it as a legal norm.[27] He included it in his *Sentences,* a work of moral theology that was again tremendously successful, with copies surviving in dozens, indeed hundreds of medieval manuscripts. There, Isidore devoted a section to "De acceptione personarum", in which he insisted that

> The person should not be considered in the judgement, but only the case… The one who perverts his judgement out of favour to family or friendship, or out of hatred of his enemies, without doubt is known to sin against Christ, who is truth and justice. Wicked judges err in the truthfulness of their judgement when they pay attention to the quality of the person…[28]

That this was a form of corruption seems clear. Indeed, Isidore went immediately on to discuss judicial bribery (*De muneribus*) in the next passage of the *Sentences*.

What is especially interesting is that, as far as I can see, this was not a sentiment that could be found in ancient Roman law. True, Roman law had insisted that judges should be neutral, and should not accept bribes. But the Romans had no hesitation in judging people according to their status. Judges distinguished legally not just between the free and unfree, but more significantly, between *honestiores* and *humiliores* – more significantly, because whereas the free and unfree distinction was about excluding people from the legal system, the distinction between *honestiores* and *humiliores* was one made within that system. There was no classical Roman law equivalent for Isidore's prohibition of *acceptio personarum*, which comes rather from his reading of Scripture.

In this way, we can see an important conceptual innovation in thinking about

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26 VAN ENGEN, John. "God is no respecter of persons": sacred texts and social realities. In: SMITH, Lesley; WARD, Benedicta (eds). *Intellectual Life in the Middle Ages:* Essays Presented to Margaret Gibson. London: Continnuum-3PL, 1991, p. 243–264; and PÉREZ DE HEREDIA, Ignacio. Die Sorge um die Unparteilichkeit des Richters im allgemeinen in der Lehre der Synoden und der Väter vom IV. Jahrhundert bis zum Ende der Väterzeit. *Archiv für katholisches Kirchenrecht* 148 (1979), p. 380-407.

27 Cf. LOSCHIAVO, Luca. Isidore of Seville and the construction of a common legal culture in early medieval Europe. *Clio@Themis* 10 (2016), p.1-21.

28 ISIDORE OF SEVILLE, *Sententiae*, ed. Pierre Cazier, Corpus Christianorum Series Latina 111. Turnhout: Brepols, 1998. Book III, ch. 53, 'Non est persona in iudicio consideranda, sed causa; scriptum est enim: non accipies personam in iudicio. Et iterum: Non misereberis pauperi in iudicio. Qui enim consanguinitatis uel amicitiae fauore, siue inimicitiarum odio, iudicium peruertunt, sine dubio in Christum, qui est ueritas et iustitia, peccare noscuntur.'

corruption emerging in this clerical, theological context. But although it was developed in a Christian, ecclesiastical context, the idea of not taking persons into account did not stay confined to there. It made its way into Carolingian royal capitularies, as studied recently by Jan van Doren in this context, and into Angevin English legal edicts.[29] Indeed, the notion of not respecting persons is part of the American secular legal tradition to this day, since judges runs the United States are required to take an oath that they will not do it:

> "I, _____, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____ under the Constitution and laws of the United States."[30]

Bishop Isidore of Seville would have heartily approved.

Ideas of simony could spread too, at least to some extent. The election of kings could be regarded as potentially simoniac, as was the case in 1077, when, according to the contemporary writer Bruno of Merseburg, papal legates warned German aristocrats against demanding favours from candidates for kingship before supporting them.[31] This was something which Peter the Chanter also worried about, since becoming king always involved if not anointing, at least some kind of clerical blessing. Indeed, Peter thought even secular judges could find themselves assessed through a simoniac lens. As he put it, in a passage aimed at royal rather than church judges, 'to sell a judgement, even if you are penniless, is simoniacal, because a judgement is connected to the office of judge and to justice'.[32]

However, perhaps the most remarkable of all such conceptual slippage was an attempt in late Ottonian Italy to impose norms of celibacy on secular judges, to stop them being swayed in their judgement by kinship relations, which I have written about elsewhere with Giorgia Vocino.[33] The text in question runs as follows:

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[29] See VAN DOREN, Jan. "Cupiditate Ducti": Corruption in the Carolingian World. Unpublished PhD Thesis, Princeton University, 2021.

[30] Available online at: textoftheoathsofoffice08-10-2009.pdf (supremecourt.gov). Accessed: June 14, 2024.

[31] BRUNO OF MERSEBURG, *The Saxon War*. Tr. Bernard Bachrach and David Bachrach. Washington DC: The Catholic University of America Press, 2022, p. 144.

[32] PETER THE CHANTER. *Verbum Adbreviatum*. Ed. Monique Boutry. Corpus Christianorum. Continuatio Mediaevalis 196.Turnhout: Brepols, 2004, p. 329. Cf. BALDWIN, *Masters*, vol. 1, p. 192, noting that Peter and another contem-porary theologian, Thomas of Chobham, 'made little effort to distinguish between ecclesiastical and secular judges'.

[33] VOCINO, Giorgia; WEST, Charles. "On the life and continence of judges": the production and transmission of imperial legislation in late Ottonian Italy. *Mélanges de l'Ecole française de Rome. Moyen Âge* vol. 131, 1 (2019).

*On the life and continence of judges*

> Moreover, it is permitted to none of our judges giving the law in the sacred palace or elsewhere in our kingdoms to contract a marriage (gloss: that is, a woman). This is so that they should not be led by love of their children to leave the path of truth and law, and to unjustly seize other people's property for the ambition of their children, using their judgements for their advantage. But despising (gloss: that is rejecting) the delights of this wicked world, they should hold to the norm of truth on all occasions, in customs, apparel and the signs of all goodness, and as we determined above in another chapter, they should imitate the religious priests and adhere in all things to their laws.

The text does not use the Latin term *corruptio* or any of its cognates, but this is nevertheless clearly the conceptual field in which the text is intervening, criticising the use of judicial power for the advantage of one's family. The text's proposed solution to this problem, compulsory celibacy for secular judges, was astonishingly radical, and there is no evidence for its implementation. It is nevertheless an interesting indication of how clerical norms around impartiality could in principle cross over to other spheres: how the distinctly clerical idea that celibacy was the solution for the distorting effects of kinship could spring to mind as potentially applicable to secular judges too. Office-holding in the royal and the ecclesiastical spheres were not always so far apart.

## Conclusion

As we have seen (and as this volume demonstrates in more detail and depth), there was a good deal of discussion about corruption in the Latin West in the Middle Ages. Some of this discussion used a familiar terminology of 'corruption' (*corruptio*, *corrompere*); some of it used a different terminology (*acceptio personarum*, *simonia*); and some of it was phrased more generally. Some of this discussion took place in contexts that are familiar to us from discussions around corruption today, especially regarding bribery and secular judges. A lot of it, however, took place in a religious setting, notably in the case of simony, which referred predominantly to office-holding within the church.

Modern discussions often play down the discourse around corruption in the Middle Ages, chiefly because they are keyed to the idea of corruption as the abuse of public office, understood in secular terms, and usually assumed to be a characteristic of modernity. As noted above, however, researchers of corruption have recently begun to frame corruption not just as an abuse of power, but more specifically instead as the

abuse of entrusted power. They do so chiefly to allow for the possibility of corruption in the private sphere; but this approach seems to me to have a lot of potential for the Middle Ages. For indeed, power can be entrusted by entities other than the State, including, I would argue, God. The assumption that power entrusted by God, rather than the State, is a very different phenomenon – in other words, that office holding is fundamentally different and incommensurate in the secular and ecclesiastical spheres – seems to me something that needs to be proven, rather than assumed.

If in this way we bring clerical corruption back into the broader history of corruption, then we may need to re-think some widely-held ideas about that history, including the assumption of an intensification of the discourse around it in the early modern or modern period. Perhaps what took place was less an intensification than a transfer of a discourse, from one social arena to another. And even if our focus remains chiefly on secular office-holding, we still need to make space for the deeper history of ideas of corruption, such as the concept of *acceptio personarum*, 'without respect of persons', which reminds us that we cannot always separate the religious from the secular as easily as may be presumed.

In beginning his book on corruption in 1600, Mark Knights suggested to an audience of historians and social scientists focused on modernity that the history of corruption is deeper than they realise. Historians of the Middle Ages would, I am sure, wholeheartedly agree with that argument. Indeed, it seems to me that to be fully understood, it is a history that needs to be taken a long way back before then.

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# Lesser and corruptible

the worth of a humble man's word
during the Middle Ages

ARMANDO TORRES FAUAZ[1]

The modern political definition of the term corruption presupposes the condition of public agency or the occupation of a public office. It works by opposing the private individual's interest to the public's interest or, more generally, to the common good. In this sense, Klitgaard affirms that "Corruption occurs when an agent betrays the principal's interests in pursuit of her own".[2] This is not completely inapplicable to mediaeval times. In the Middle Ages, however, the notion of public agency or public office is not reducible to Weber's notion of bureaucracy.[3] A public agent need not be someone paid by the public treasure. Several authors have shown that to be a public agent, from Carolingian times onward, meant mostly to take part of public life, which until the end of the eleventh century revolved around the courts, i.e., legal institutions.[4] Not only to be a judge meant to have a public responsibility; witnesses were also socially responsible,[5] as well as co-jurors, guarantors of a public action, etc. In their particular mediaeval sense, all of these were public charges and, as such, they could be susceptible of corruption. But how, specifically?

In the Middle Ages, to act publicly and legitimately meant to act in a trustworthy manner. Were it because every public action presupposed the tissue of fidelities (*fides*) that made up the social bond; or because such an action implied the assertion, the promise, or the confirmation that whatever was being conducted was done truthfully

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[2] KILTGAARD, Robert. *Controlling Corruption*. Berkeley: University of California Press, 1988, p. 24.

[3] WEBER, Max. Legal domination in the direction of bureaucratic administration. In: *Economy and Society*. Berkeley: University of California Press, 1968 [1921].

[4] LEMESLE, Bruno. *Conflits et justice au Moyen Âge*. Paris: Presses Universitaires de France, 2008, p. 35-46.

[5] MAUSEN, Yves. *Veritatis adiutor*. La procédure du témoignage dans le droit savant et la pratique française (XIIe et 5 XIVe siècles). Milan: Guiffrè, 2006.

and openly.[6] This becomes self-evident when, after the twelfth century, the swearing of oaths became a requisite for taking part of public life, as a witness, judge, mediator, arbitrator, party in a lawsuit, and, later, as a city official and even an artisan.[7] Faithfulness (*fides*) can be therefore understood, in this context, as "fidelity to the given word".[8] This is why, to be able to partake of the public sphere, individuals had to be considered trustworthy (*boni, probi, fidedigni*). No one who had a public responsibility or whose actions could affect the common interest could lack this quality.[9]

In this context and from this point of view, to be corrupt meant to trespass against faith. To lie, out of selfishness or other motives, meant to tear the link between promise and act, i.e. to be unfaithful to one's word. All actions against trust or faith bore grave social consequences and were morally and legally condemned, from the *perfidia* denounced by the Church Fathers[10] onto the more formal accusations of perjury and false testimony, which brought about legal punishment, ignominy, and infamy. Witnesses were particularly worrisome in this regard, since their public duty implied the establishment of the facts upon which justice depended, and this was solely done by giving testimony, i.e. by proffering truthful, faithful words. Such an important role in one the most valuable aspects of Christian mediaeval society, which is justice, made jurists pay particular attention to witnesses' potential actions against faith. And one of the greatest risks they perceived was the giving of false testimony in exchange for money or favour, i.e. venality.

With this in mind, mediaeval jurists argued that, although anyone could be corrupted, there were some people more corruptible than others. These could belong to political or social minorities since their condition or provenance casted a doubt over their reputation. Or they could be vicious people whose word had proven to be worthless. Naturally, judges and bishops were corruptible. And indeed, the venality of judges worried early mediaeval jurists who still pulled on the thread of Roman law. As

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[6] SASSIER, Yves; FALWOSKI, Wojciech (eds.). *Confiance, bonne foi, fidélité*. La notion de fides dans la vie des sociétés médiévales (VI -XV siècles). Paris: Classiques Garnier, 2018, p. 7-11.

[7] DUTOUR, Thierry. *Sous l'Empire du bien*. Paris: Classiques Garnier, 2015.

[8] LEFEBVRE, Jean-Luc. Prud'hommes, serment curial et record de cours. Paris: De Boccard, 2006. FORREST, Ian. Trustworthy men. Princeton: Princeton University Press, 2018.

[9] TODESCHINI, Giacomo. *Au pays des sans-nom*. Gens de mauvaise vie, personnes suspectes ou ordinaires du Moyen Âge à l'époque moderne. Paris: Verdier, 2015.

[10] TONEATTO, Valentina. "*Ut memores sitis fidei nobis promisae*": Notes à propos de la *fides* (IVe-IXe siècle)". In: JÉGOU, L.; JOYE, S.; LIENHARD, T.; SCHNEIDER, J. (eds.) *Splendor Reginae*. Passions, genre et famille. Turnhout: Brepols, 2015, p. 321-328.

well, simony was at the very centre of canonists' debate, especially in the context of the Gregorian Reform. However, there were several legal and social principles that excluded people from priesthood or the judiciary, so that vileness and the low condition of people did not necessarily worry the jurists who were theorising the range of    legitimate actions of prelates or magistrates. On the contrary, these preoccupations were central when thinking about witnesses.

Being a witness was one of the very few public roles that could be fulfilled by people outside the most prominent social circles. In principle, anyone who was honest and lived a good and faithful life was qualified to act as a witness, provided he knew what he was testifying about. This entailed a significant risk because it allowed the participation of people whose reputation could not be confirmed and who could be easily corrupted, due to their social position and material condition. In this paper we shall explore the arguments given by jurists to wage down the word of the humble. These arguments are in all cases closely tied to a common model of suitability based, partly, on the social condition of men.

## Justice and corruptibility

Justice was the single most important value for Christian political thought. Augustine follows Cicero in this idea,[11] introducing the nuance that men's justice will always be inferior to God's.[12] In the structure of the polity, justice was one of the highest and most important functions, making the magistrate or judge the deliverer of princely and godly justice. From the 5th Century, the law conceived a judge's venality as a major crime, punishable even by death, as can be attested in the very first edict of the *Edictum Theodorici* (6th Century):

> In the first place We have decreed that if a judge accepts money to pass judgment which imperils the life or civil status of an innocent person against the ordinances and provisions of the public law, let him be subjected to a capital penalty.[13]

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[11] CICERON. *De Oficiis*, I, 20: *De tribus autem reliquis latissime patet ea ratio, qua societas hominum inter 11 ipsos et vitae quasi communitas continetur; cuius partes duae: iustitia, in qua virtutis splendor est maximus, ex qua viri boni nominantur; et huic coniuncta beneficentia, quam eandem vel benignitatem vel liberalitatem appellari licet. Sed iustitiae primum munus est, ut ne cui quis noceat, nisi lacessitus iniuria; deinde ut communibus pro communibus utatur, privatis ut suis.*

[12] AUGUSTINE, *De fide rerum quae non videntur*, I - II, 4.

[13] MONUMENTA GERMANIAE HISTORICA (MGH) LL V, p. 152: *Priore itaque loco statuimus, ut si iudex acceperit pecuniam, quatinus adversum caput innocens contra leges et iuris publici cauta idicaret, capite puniatur.* (Translated by LAFFERTY, S.. *The Edictum Theoderici:* A Study of a Roman Legal Document from Ostrogothic Italy. PhD Thesis. University of Toronto, 2010, p. 269).

If the bribed judge's sentence did not affect life or status—meaning freedom—but rather fortune and estate, the corrupted judge would have to retribute fourfold the value of the bribe (*venalitas*) to whomever his sentence had wronged.[14] The *Leges Burgundionum* (5th Century) establish likewise, in a far more reprimanding tone:

> If any of the aforementioned is corrupted against our laws, or if he is convicted of having accepted a prize during a trail he was judging, once his crime has been proved, let him be subjected to the capital penalty, as an example to all.[15]

But these codes were not only concerned with the corruption of judges. They were also concerned with the integrity of witnesses. A witness's oath or deposition affected the functioning of justice just as much as a judge's discernment because it was at the origin of truth. Certainly, testimony alone had no probative value before the 12th and 13th centuries, but it was nonetheless constitutive of proof, alongside the swearing of oaths and the passing of an ordeal.[16] This is why false testimony had to be punished and deterred. In that sense, the *Edictum Theodorici* established that "Those who deliver conflicting or false testimony or provide such testimony to either party [in a suit], shall be sent into exile".[17] A fine of three hundred sous was established as punishment for the same crime in the *Lex Burgundionum*,[18] while, in this code, the fine against murderers was established at 150 sous,[19] which would appear to make false testimony more grievous than homicide.

When dealing with the corruption of witnesses, the *Edictum Theodorici* elaborates on the *Lex Cornelia de Falsis* (81-79 B.C.) which deals with falsehood in a judicial context. This law condemns slaves to torture and free men to exile if they ever testify a lie,[20] accepting favours or money to deliver a false testimony, or to suppress the truth.[21]

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[14] EDICTUM THEODORICI, MGH LL V, p. 152, n. 2.

[15] MGH LL III, p. 527, n. 5: *Quod si quis memoratorum corruptus contra leges nostras, aut etiam iuste iudicans, de causa vel iudicio praemium convictus fuerit accepisse, ad exemplum omnium probate crimine capite puniantur.* (Translation is mine).

[16] GIULIANI, Alessandro. *Il concetto di prova*. Contributo alla logica giuridica. Milano: Giuffrè, 1971; LEMESLE, Bruno. *Conflit et justice au Moyen Âge*...; JACOB, Robert. *La grâce des juges*. Paris: Presses Universitaires de France, 2014.

[17] MGH LL V, p. 160, n. 42: *Qui varium vel falsum testimonium dixerint, aut utrique parti prodiderint, in exilium dirigantur.* (trans. Lafferty, p. 271).

[18] MGH LL III, p. 566-567, n. 80.

[19] MGH LL III, p. 533, n. 2.

[20] JUSTINIAN. *Institutes*. IV, 18 (Ortolan, Paris, 1857).

[21] ELIO MARCIANUS. *Institutionum*, book 14 (2nd Century A.D.): *Dig*. 48.10.1, 2.

These examples illustrate how false testimony in Roman and early mediaeval law was often related to bribery. By accepting or offering money to lie, one was acting against the truth and corrupting justice. This is why the law makers' concern extended to avoiding that corrupt or corruptible people testify. The most obvious way to do so was to forbid that those guilty of false testimony or perjury would ever function as witnesses in a trial, since their word had completely lost its worth. They had acted against faith and were, therefore, untrustworthy. In that sense, the Julian Law on extortion (59 B.C.) stated that those condemned of having received money to falsely testify or to abstain from testifying, as well as the judges who had taken bribes, could never testify or be judges again.[22] This was retaken by Papinianus, who commented on the *Lex Remnia de Calumniatoribus* (80 B.C.), stating that those guilty of extortion or peculate could not be received as witnesses.[23] Likewise, Paul sentenced that those guilty of false or varying testimony were inadmissible as witnesses and should be punished,[24] and Ulpian inhibited those whom had retracted after a deposition.[25] But to have *fide dignitas* meant more than just not being guilty of a crime. Admissible witnesses were only those whose credibility was beyond a doubt (*quorum fides non vacillat*).[26] So, anything that made a person suspicious would become an impediment to testify. This is why adulterers could not serve as witnesses, neither could convicted criminals nor anyone whose reputation (*fama*) was dubious.[27]

**A humble man's word**

Apart from those who had committed crimes and perjury, Roman lawmakers and jurists agreed upon the fact that a humble man could never be trusted to be a witness in a trial. Roman law casted a shadow over those who came from lower social strata. Their origin made them prone to vice, thus morally ambivalent. Emperor Justinian, the compiler of the ultimate collection of Roman Law (sixth century), considered that only three things could determine whether a man's word could be trusted (*bonae*

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[22] VENULIUS SATURNINUS: *Eadem lege tenentur, qui ob denuntiandum vel non denuntiandum testimonium pecuniam acceperint. Hac lege damnatus testimonium publice dicere aut iudex esse postulareve prohibetur. Dig.* 48.11.6.1

[23] *Dig.* 22.5.13

[24] *Dig.* 22.15.16

[25] *Dig.* 22.15.17

[26] Charisius, *Dig.* 22.5.1.

[27] *Lex julia de vi publica* (1st century B.C.): *Dig.* 22.5.3.5

*opinionis esse*): either his riches, his military rank or having occupied a public office. No one from ignoble, lesser (*vilissimi*) or obscure origins could ever be trusted because it would be impossible to assess the moral quality of his life.[28] The main idea remains that of *fama,* i.e., the confirmed public opinion of a person. Before Justinian, classical jurists did not think differently. Slaves (*servi*) and servants (*domestici*) were normally inadmissible as witnesses because of their vileness.[29] However, if no other means were available for establishing the truth, their testimony could be admitted.[30] For their words to be trusted, nonetheless, there was no choice but to submit them to torture.[31]

During the Early Middle Ages, the opinion on the suitability of witnesses did not change considerably. Witnesses admissible were those of *bona fides*[32] or *bona conversatio,*[33] who had knowledge of the facts. From the sixth until the eleventh century little changed in this regard. Vicious and untrustworthy people were simply unreceivable. This excluded perjurers[34] and those guilty of false testimony[35] from testifying, obviously, but also convicted criminals,[36] drunkards,[37] idiots,[38] bastards,[39] heretics, and the anathematised,[40] for all of them were considered infamous.[41] Again,

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[28] JUSTINIAN. *Novellae*, n. 90, *De testibus*, c. 1 (539 A.D.): sanc*imus autem, et praecipue in hac maxima et felicissima civitate, ubi plurima consistit (deo favente sermoni) multorum bonorumque copia virorum, bonae opinionis esse oportere testes et aut carentes huiusmodi derogatione per dignitatis aut militias aut divitiarum aut officii causam, aut si non tales consistunt, ex utroque tamen quia sunt fide digni testimonium perhibere, et non quosdam artifices ignobiles neque vilissimos nec nimis obscuros ad testimonium procedere, sed ut si qua de his dubitatio fuerit, possit facile demonstrari testium vita, quia inculpabilis atque moderata est.*

[29] Paulus, *Dig.* 22.5.24; Codex Justiniani, 4.20.3: *Imperatores Valerianus, Gallienus. Etiam iure civili domestici testimonii fides improbatur.*

[30] 22.5.7: *Servi responso tunc credendum est, cum alia probatio ad eruendam veritatem non est*; 48.18.8: *Edictum divi Augusti, quod proposuit Vibio Habito et Lucio Aproniano consulibus, in hunc modum exstat: "Quaestiones neque semper in omni causa et persona desiderari debere arbitror, et, cum capitalia et atrociora maleficia non aliter explorari et investigari possunt quam per servorum quaestiones, efficacissimas eas esse ad requirendam veritatem existimo et habendas censeo"*; 48.18.9: *Divus Pius rescripsit posse de servis haberi quaestionem in pecuniaria causa, si aliter veritas inveniri non possit. Quod et aliis rescriptis cavetur. Sed hoc ita est, ut non facile in re pecuniaria quaestio habeatur: sed si aliter veritas inveniri non possit nisi per tor-menta, licet habere quaestionem, ut et divus Severus rescripsit. Licet itaque et de servis alienis haberi quaesti-onem, si ita res suadeat.*

[31] *Dig.* 22.5.21: *Si ea rei condicio sit, ubi harenarium testem vel similem personam admittere cogimur, sine 31 tormentis testimonio eius credendum non est*; *Dig.* 48.18.18.7: *Servus, nec si a domino ad tormenta offeratur, interrogandus es*t; *Dig.* 48.18.10.1. *Sed omnes omnino in maiestatis crimine, quod ad personas principum attinet, si ad testimonium provocentur, cum res exigit, torquentur.*

[32] Childebert's second decree (A.D. 596), MGH, *Capitularia Regum Francorum* I, 7, c. 7, p. 16.

[33] GRATIAN, *Decretum*, Pars 2ª, C II, q.5 , c. 4.

[34] CARLOMAGNO, *Capitularia*, MGH I, 22, c. 65; I, 35, c. 39; I, 44, c. 11.

[35] PAULUS, Dig. 22.5.16; Yves de Chartres, Panormia, V, 36 (PL 161, col. 1277).

[36] YVES DE CHARTRES. *Panormia*, V, 30 (PL 161, col. 1217).

[37] CARLOMAGNO. *Capitularia*, MGH I, 40, c.15.

[38] YVES DE CHARTRES. *Panormia*, V, 32 (PL 161, col. 1277).

[39] CARLOMAGNO. *Capitularia*, MHG VIII, 167, c. 8.

[40] YVES DE CHARTRES. *Panormia* V, 28 (PL 161, col. 1217).

[41] GRATIAN. *Decretum*, Pars 2ª, C. VI, q. 1, c. 18.

the lower strata remained regularly inadmissible as witnesses because of their proneness to vice. They could not fit the model of a morally good man. This is explicitly stated in a letter by pope Gregory the Great (sixth century), which was later retaken by Gratian (1140). There, Gregory establishes that those of low condition (*inopes*) as well as the vile, who were guilty of crimes, could not be received as witnesses.[42] In that sense, the first letter of pseudo-Stephen of the pseudo-Isidorian tradition, dresses up a repertory of people who are excluded from fully belonging to the Christian community, and were thus considered unreceivable as witnesses and excluded from priesthood. Among the almost thirty kinds of rejects contained in this letter, one can find slaves, even if recently liberated, as well as serfs, many kinds of criminals, and people who acted like crazy.[43] This repertory enlarged the one already established in Roman law, or at least systematised it in one single answer. It is important to remember that this letter, although supposedly composed in the seventh century, dates from the middle of the ninth. This means that it expressed a constellation of ideas which were being discussed at the time and that were certainly drawn from previous canonical thought. Perhaps it was due to the indirect influence of episcopal thought on the matter that emperor Louis the Pious (813-840) banned all vile and infamous people from his court, from acting either as accusers, witnesses, or judges. That meant jokers, mockers, pimps, bouffons, those who have concubines, bastards, slaves, or serfs as well as criminals.[44]

The political scene in the early Middle Ages, as late as the tenth century, has been described as a *Dinggenossenschaft*, a cooperative community of people who could legitimately fulfil the different roles in the Germanic judicial assembly.[45] This meant that those who could act legitimately as witnesses, judges, accusers, were so little in number and so high up the social scale, that they had to take turns in fulfilling those roles. Certainly, in Carolingian and later Merovingian times this order of things was

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[42] GRATIAN. *Decretum*, Pars 2ª, C. II, q. 1, c. 7

[43] Pseudo-Stephen, 1st letter. *Epistola decretalis Stephani papae Hilario directa*. *Decretales pseudoisidorianae et capitula Angilramni*. Leipzig: ed. Hinschius,1883. (cited by Todeschini, *Au pays…*, p. 60; 313).

[44] Louis le Pieux, (s.f.) MHG, *Capitularia*, 167, c. 8: *Hoc sancimus, ut in palatiis nostris ad ccusandum et iudicandum et testimonium faciendum non se exhibeant viles personae et infames, histriones scilicet, nugatores, manzaeres, scurrae, concubinarii, neque ex turpium feminarum commixtione progeniti aut servi aut criminosi.*

[45] WEIZEL, Jürgen. Dinggenossenschaft und Recht. Untersuchungen zum Rechtsverständnis im fränkisch-deutschen Mittelalter. Köln: Böhlau Köln, 1985 ; WEIZEL, Jürgen. Die Bedeutung der Dinggenossenschaft für die Herrschaft-sordnung. In: DILCHER, G.; DISTLER, E.-M. (dir.). *Leges – Gentes – Regna*. Zur Rolle von germanischen Rechtsgewoh-nheiten und lateinischer Schriftkultur. Berlin: Schmidt 2006, p. 351-366; NEHLSEN VON STRYK, Karine. Die boni homines des frühen Mittelalters, unter besonderer Berücksichtigung der fränkischen Quellen (Freiburger rechtsgeschichtliche Abhandlungen, NF. Bd.2). Berlin: Duncker & Humblot, 1981, p. 246, 252-254.

not exactly so, given the conquest of vast territories, the organisation of an administrative edifice, and the carrying out of government practices such as the running of enquiries related to custom, the condition of men or of possessions, which were based on the testimonies of local people. Nevertheless, those local people need not only be neighbours of a given community (*vicini*), but they also had to be free, they could not be serfs, nor be of an extremely low social condition. So altogether, legal, and political dynamics of imperial or local courts still excluded an important part of the population. And they did so on account of their untrustworthiness and their vileness. The fact that drunkards, criminals, bastards, idiots, and adulterers were grouped together with slaves, serfs, and those of very low social condition meant that infamy weighed upon all their shoulders. The poor and those of lower condition were then mainly rejected because of their inherent vice, or at least their proclivity to it, just as it was for the Romans and canon law jurists of earlier centuries.

It is important to briefly explain the language of the sources. Like English, Latin condenses the elitist nature of the society and history they helped shape. The English word "dignity" has indeed a moral connotation, and some of its meanings refer to the qualities that render someone worthy of respect. But it also refers to a title, honour or concession awarded to someone by a superior, which grants him/her a high rank or position. Consequently, to lack dignity, to be undignified, might mean to act unworthily, but it can also mean to have no rank or position. The word ignoble works in the exact same way. However, when it comes to the word "vile," taken directly from Latin, it works likewise but in a positive manner. If "undignified" and "ignoble" are defined as the lack of something—  negatively vis à vis the concepts of dignity and nobility, the word "vile" positively denotes a condition: that of lowness. It expresses a low quality which again can be moral, but also social. In this sense, the fact that vileness is a synonym of wickedness connotes the assimilation of base morals and base social origins. In our documents, the grouping of pimps, bastards, heretics, serfs, and slaves shows that early mediaeval jurists thought no differently[46]. A noteworthy change did occur after the 11th century pertaining to the reasons for the lower strata to be inhibited from court. Yves de Chartres (1040-1115), a prominent developer of Canon Law, was the first to express it. He wrote in his *Panormia*:

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[46] This has best been treated by TODESCHINI, G. *Au pays des sans-nom…*

> Judges should not easily admit vile persons as witnesses. Counts and judges should remember with extreme diligence that vile and undignified people should not be allowed to testify, since there are many who can be driven to swear in exchange for nothing, or in exchange for their own satiation or for a small price. And thus, they risk the loss of their souls.[47]

His ideas are noticeably clear. People from the lower strata, those who were poor or in service, were easily corruptible. Firstly, they could be forced to swear a lie in favour of their master, which is why Gratian (1140) also rejected serfs (*domestici*) from testifying.[48] Secondly, they could be driven to lie under oath in exchange for goods or a little money. This is why their word was worthless in normal circumstances.

Roman thinkers did concede to the fact that there could be extraordinary conditions in which a vile person could testify, notably if there were no other means of proof. Medieval jurists accepted these provisions but, as did the Romans, they saw no other way to exact the truth from the vile if not through torture. "Vile witnesses must not be believed without corporal discussion", affirmed Gregory the Great;[49] while Yves de Chartres was more explicit and little laxer, affirming: "If a vile witness should be produced during a trial, let the judge decide whether or not he must be submitted to torment".[50]

After the eleventh century, the value of witnesses as proof started increasing in the thought of jurists and in legal practice. Before, they mainly functioned as co-jurors alongside one of the parties in a suit, permanently under threat of facing an ordeal if the counterpart contested their testimony. They could also act as mere guarantors to a public act, lending their names as proof that the action had legitimately taken place. But after the structure of the trial and the nature of proof started changing, with the development of juridical thought, witnesses acquired a different worth. They were sworn in and their depositions progressively gained force of proof, to finally displace written documents as the strongest probatory means. This process took place between the end of the twelfth century and the beginning of the fourteenth.

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[47] YVES DE CHARTRES. *Panormia*, V, 24 (PL 161, col. 1277): *Viles personas ad testimonium non facile judices permittant accedere. Summopere admonendi sunt comites et judices, ne viles et indignas personas coram se permittant ad testimonium accedere, quoniam multi sunt qui jurare pro nihilo ducunt in tantum ut pro unius dici satietate aut pro quolibet parvo pretio, ad juramentum conduci possunt, et animas suas perdere minime formidant.*

[48] GRATIAN. *Decretum*, Pars 2ª, C. XIV, q. 2, c. 1: *Domestici ad probationem non admittantur, ut pro his uidelicet, quorum sunt domestici, testimonium ferant.*

[49] GRATIAN. *Decretum*, Pars 2ª, C II, q. 1, c. 7, §. 13: *uilissimis testibus sine corporali discussione credi non debeat.*

[50] YVES DE CHARTRES. *Decretum*, XVI, c. 152 (PL 161, col. 933): *Nullius recipiatur testimonium, nisi ejus qui sont bona opinione, vel vitae honestas, vel artis titulus laudabilis, vel etiam aliorum testium vox, de bona vita ejus consentiens. Alius autem testis vilissimus si productos in judicio fuerit, liceat judici si hoc aestimaverit, tormentis eum subiugere.*

As the content of testimonies was given more attention, the condition of witnesses, though decisive of their deposition's worth, was attenuated by their knowledge of the facts. In this sense, Bruno Lemesle has shown how both conflicting elements are present in the thought of Yves de Chartres.[51] The latter, as we saw, distrusted the humble man's word, but he was also concerned with the fact that the judicial process arrive at the truth and that it lead to peace by assuring the satisfaction of both parties. This is why he insisted that witnesses have knowledge of the facts. Not only those who were of vile origin were then rejected, but also those who only knew the facts by hearsay: "We do not admit the testimony of those who affirm that they heard someone say so as they passed by".[52]

Whom Yves grouped in the same category as witnesses who accepted money and those who were subordinated to either party. Their word was equally worthless. But Yves goes further by attaching more importance to honesty and discretion than to social condition or gender as definitive of someone's trustworthiness. Thus, when referring to a promise of marriage, he asserts:

> I believe you feel, like me, that because, in Christ, no one is a serf, nor a free man, neither a woman, nor a man, all those who are drawn together as a Christian people do not think differently of free men or servants. Therefore, any person of any condition can rationally be admitted to testify as long as he/she lives an honest life and is trustworthy (*boni testimonii*).[53]

There appears to be an inconsistency in Yves's thought, however, since elsewhere he affirms that *vilissimi* cannot be of *boni testimonii*. This sudden access of equality may seem spurious. Nevertheless, this apparent contradiction relates to the value this thinker, and others, attach to the knowledge of truth, which in this case seems superlative. But also, Louis the Pious and Gratian, both highly distrusting of the vile man's word, are attuned to the same fundamental idea. "It is not credible that someone can have more knowledge of the truth of a matter than neighbouring people,

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[51] LEMESLE, B. *Conflits et justices au Moyen Age…*, p. 206-208. See also LEMESLE, Bruno. Les enquêtes dans la région angevine.  In: GAUVARD, Claude (éd). *L'enquête au Moyen Âge*. Paris: École Française de Rome, 2008, p. 41-74.

[52] YVES DE CHARTRES. *Panormia*, V, 25 (PL 161, col. 1277): *Non admittimus autem testimonia eorum qui dicere solent transeuntes se audisse aliquem dicentem, pecuniam sibi sublatam esse, sed nec tabulariorum sola praesentia sufficit, nisi testes quoque rogati se subscripserunt.*

[53] YVES DE CHARTRES. *Epistola* 183 (PL 162, col. 184): *Credo autem vos mecum sentire, quia sicut in Christo neque servus est, neque liber, neque masculus, nqeue femina ita in contractibus Christiani populi quos comu-nes habent liberi cum servis, et omnes homines cujuscunque conditionis, si de his controversia orta fuerit, quascunque personas hoastae tam vitae et boni testimonii ad testimonium rationabiliter posse admiti.*

regardless of that someone's status or wealth", says Louis.[54] While Gratian would reject any witness who was not present when events unfolded.[55]

Since the second half of the twelfth century, the transformation of the legal process and the clearer definition of a canonical procedure brought about the existence of manuals intended for local judges.[56] These manuals, known as *Ordines Judicarii*, defined quite specifically who could be admitted as an accuser, a judge, or a witness. They were composed locally—the first ones emerging in France during the 1170s. The earliest of these *Ordines*, the *Rhetorica Ecclesiastica*, composed in Paris around 1170,[57] does emphasise the importance that witnesses have knowledge of the facts.[58] Yet it still openly rejects the testimony of serfs or servants, due to their low condition.[59] So, during the first stage of the definition of the proper procedure, which was to be accepted in most Western mediaeval courts, both ecclesiastical and lay, the importance of knowing the truth did not seem to eliminate restrictions based on social status.

During the 13th century, after the profound legal transformation led by pope Innocent III (1198-1216), a more definitive manual emerged, imposing itself as the main reference for the proper conduction of a legal process. This manual is the *Ordo Judicarius* by Tancred, composed around 1230. Tancred set forth a model based on seven criteria for defining the admissibility of witnesses: *Conditio, sexus, aetas, discretio, fama, fortuna* and *fides*.[60] *Discretio* and *fides* both refer to trustworthiness and honesty. *Fama* refers to the witness's reputation, *aetas* to his age, and *sexus* to his gender. Tancred rejected infamous people as witnesses, as well as minors. He excluded women but was more concerned with excluding hermaphrodites; an idea that can be traced back to an old tradition rooted on Roman law, related to the ambivalence

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[54] MGH Capitularia, VIII, 134, c. 1: *... quia non est credibile, ut de satu hominis vel de possessione eius per alios melius cognosci rei veritas possit quam per illos qui vicini sunt.*

[55] GRATIAN. *Decretum*, Pars 2ª, C. III, q. 9, c. 15: *Testes non dicant testimonium, nisi de his, que presentialiter nouerunt.*

[56] FOWLER-MAGERL, Linda. *Ordo iudiciorum vel ordo iudiciarius*. Frankfurt: Klostermann, 1984; FOWLER-MAGERL, Linda. *Ordines iudicarii et libellus de ordine iudiciorum* (From the middle of the twelfth to the end of the fifteenth century). Typologie des sources du Moyen Âge occidental, n. 63, Turnhout: Brepols, 1994.

[57] *Rhetorica ecclesiastica*. Emil Ott, ed., Vienna, 1892, p. 36-48 (dates it to 1170 in Paris).

[58] *Rhetorica ecclesiastica*, XII, 1: *Testes facti sunt illi, qui in juditio ea, quae noverunt, dixerint. Non enim de auditu testimonium recipitur* (ed. Ott, p. 116).

[59] *Rhetorica ecclesiastica*, XII, 5 and 6 (ed. Ott, p. 117-118).

[60] TANCRED. *Ordo Juris*, ed. Friedrich Christian Bergmann, *Pillii, Tancredi, Gratiae, Libri de iudicorum ordine*, 60 *Göttingen*, 1842, Tit. 6, p. 225 ; see also MAUSEN, Yves. *Veritatis Adiutor*. La procédure du témoignage dans le droit savant et la pratique française (XIIe-XIVe siècles). Milan: Dotto, 2006, p. 448-510.

(*vacillatio*) of someone who is neither a man nor a woman.[61] Finally, *conditio* and *fortuna* were indeed related to the social condition and position of potential witnesses. No serf, slave or poor man could be normally admitted to testify, according to Tancred. So, even if he stuck to the idea that the knowledge of truth was definitive of a witness's worth, which he explicitly states,[62] Tancred still considered social conditions to be imperative.

Tancred, however, made an exception regarding the condition of poverty (*paupertas*). A *pauper* was defined by roman law as he who had less than 50 *auri*, which Tancred knew and cited.[63] And to be a *pauper* meant to be rejected as a witness, as we have seen.[64] Nonetheless, the Italian jurist argued that this should only apply to those who could be suspected of lying in exchange for money (*pro pecunia mentiatur*). A poor witness could be an honest witness.[65] Pillio of Medicina, who also wrote an *Ordo judicarius* towards the end of the 12th century, thought the same. In his text, he argued that a *pauper* could indeed be of *bonae famae, opinionis et fidei*[66]. This is a major change regarding previous conceptions, where to be poor immediately meant to be vile and infamous. It does seem that Yves de Chartres succinct ideas had some echo , including that which constitutes the distinction between an unreceivable and an honest witness of low condition, i.e., his corruptibility. And it must be underlined that such corruptibility is clearly defined as the proclivity to take bribery.

In his *Summa Theologiae* (1265-1274), Thomas Aquinas also proposed a model for determining the suitability of witnesses. He established four criteria which founded the exclusion of people as witnesses.[67] First there was guilt, which translated into the exclusion of infidels, criminals and the infamous. Then there was the defect of reason (*defectu rationis*), which meant the exclusion of fools, the crazy, infants, and women— Aquinas being a champion of misogyny. Thirdly, there was affection, which excluded enemies, friends, and servants of either party. And finally, there was the exterior

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[61] *Dig.* 22.5.15.1: *Hermaphroditus an ad testamentum adhiberi possit, qualitas sexus incalescentis ostendit.*

[62] TANCRED. *Ordo…* Tit. 9, p. 239: *Testis autem dicere debet de his, quae vidit et novit et sub eius praesentia acta sunt ; quoniam, si dicat de his, quae ab alio auditu precepit, non valet eius dictum…*

[63] *Dig.* 48.2.1, referred to by Tancred, Ordo… Tit. 6, p. 225.

[64] *Novellae* 90, c. 1.

[65] TANCRED. *Ordo…*, Tit. 6, p. 225.

[66] PILLIO. *Summa de ordine judiciourum*, §. 8, *De testibus*, ed. F. C. Bergmann, Pilii, Tancredi... op. cit., p. 65.

[67] THOMAS AQUINAS. *Summa Theologica*, I, II, Art. 70. See MADERO, Marta. Façons de croire. Les témoins et le juge dans l'oeuvre juridique d'Alphonse X le Sage, roi de Castille. *Annales. Histoire, Sciences Sociales*, 54:1 (1999): 197-218.

condition. This translated itself into the exclusion of serfs and the poor (*pauperes*), because "they can easily be induced to testify against the truth".[68]

Another major legal text of the Middle Ages, the *Siete Partidas,* composed in the court of Alfonso X of Castille after 1260, was heavily influenced by Tancred's *Ordo* regarding the qualities of suitable witnesses.[69] King Alfonso draws up a long list of people whose testimony must be rejected: The infamous (*de mala fama*), those guilty of false testimony, poisoners — which is based in the *Lex Cornelia de sicariis*, murderers, adulterers, rapists, the incestuous, traitors, the crazy, thieves, those who live reprehensible lives, women who dress as men or vice versa, any vassal who has betrayed his lord, and finally the very poor and the vile.[70] Even though there are no explicit reasons given for the exclusion of those belonging to the lowest strata, it is quite evident that Alfonso's text observes the principles established by Roman and Canon Law, which give them a bad reputation because of their corruptibility.

That the poor could be distinguished from the vile when assessing the value of their word is an important technicality that, however, does not seem to have transcended the thought of the second decretalists and late glossators. On the contrary, the jurists of the fourteenth century quite insisted upon the rejection of the poor as witnesses or accusers, by continuing to underline their tendency to accept bribery. Nevertheless, a change did occur at this time, which is of great consequence to our study. As legal thinkers of the time stressed the inaptitude of poor and vile people, they started using the verb *corrumpere* to explicitly name the act of venality. Henry of Segusio, best known as Hostiensis (1200-1271), did use the Latin term *corruptio* as he questioned the worth of a poor man's testimony. However, by corruption he meant the lack of moral quality made evident by actions such as visiting prostitutes, gambling or drinking.[71] This regarded the *fama* of witnesses. However, the word *corruptio* acquired a different meaning in later treatises whilst dealing with the exact same matter.

The first one appears to be Beaumanoir.[72] Later, the idea is highlighted in a quite renown treatise entitled *On the Reprobation of Witnesses*, which was attributed to the

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68 THOMAS AQUINAS. *Summa Theologica*: *vel etiam ex exteriore conditione, sicut sunt pauperes, servi et illi quibus imperari potest, de quibus probabile est quod facile possint induci ad testimonium ferendum contra veritatem.*

69 On these other matters pertaining to testimony in the *Siete Partidas*, see MADERO, M. Façons de croire...

70 Alfonso X, *Siete Partidas*, 3.16.8.

71 HOSTIENSIS. *Summa Aurea*, Venice, 1505, f. 132 et sq. (cited by TODESCHINI, *Au pays des sans nom...* p. 209.

72 VITÓRIA, André. Late Medieval Polities and the Problem of Corruption: France, England and Portugal, 1250-1500. In: KROEZE, R.; VITORIA, A.; GELTNER, G. (eds). *Anticorruption in history*. From Antiquity to the Modern Era. Oxford: Oxford University Press, 2018, p. 77-90.

famous commentator Bartolus of Saxoferrato (1313-1357). From the 16th century on, however, a doubt has been cast on its authorship, and it has since been attributed to one Jacob Aegidius of Viterbo,[73] who wrote it near the end of the 13th century.[74] Be it as it may, Bartolus did comment on it, as did his pupil, Baldus (1327-1400). This work is important to us, because it expands on the reasons why the poor should be excluded from testimony:

> The poor must be repelled [from testifying]. They must not be given much faith, since it must be prevented that those corrupted by money should testify. And it is easier to corrupt the poor than the rich.[75]

The same ideas were expressed by Simon de Boraston, an English lawyer of the 14th century, who in his own *Ordo judicarius* (ca. 1338) rejected as witnesses those whose extreme poverty would lead one to believe that they could be corrupted by money.[76] The underlying rationale of both texts is probably explained in the in the words of a contemporary jurist, Jacopo Bottrigari (1274-1347), who in his own treaty *On witnesses* affirms:

> It has been said that more faith should be given to those who have an office or dignity. And the higher the honour, the more one should credit them: emperors more than rulers; nobles more than commoners; the honest more than the dishonest; the rich more than the poor.[77]

So, when we arrive at the crowning moment of mediaeval law, the elitist sentiment underpinning the rejection of the lower strata as witnesses sees the bright light of day. No inuendo necessary. Credibility and social status had again become closely intertwined. Even if all were the same in the eyes of Christ, those who had less could be more easily manipulated through bribery or intimidation. And their corruptibility, which was at the very foundation of their discredit, made them less worthy, less valuable than the good and honest men who could claim full citizenship or full value

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[73] GYMNICH, Jacob. *Tractactus de testibus probandis vel reprobandis*. Köln, 1575, fol. 54.

[74] DONAHUE, Charles. *Comment on the 4th volume of the Tractatus universi iuris (venice 1584–86)*, Harvard, 2014. Available at: https://amesfoundation.law.harvard.edu/digital/tui/TUI1584_auti.php?vol=4.0. Accessed June 15, 2024.

[75] JACOB AEGIDIUS DE VITERBO. *Tractatus de testibus et de eorem reprobatione*, ed. Gymnich, Tractatus…, fol. 56: *Repellentur pauperes, quia non tanta fides eis adhibere debet, quia timor est ne pecunia corrupti testificentur, quia facilius corrumpuntur pauperes quam divites.*

[76] SIMON DE BORASTON. *Compilatio de ordine iudiciario*. (cited by TODESCHINI, Au pays… op. cit., p. 209 : *Nimia paupertate laborans repellendus est de quo presumitur quod pro pecuniis corrumperetur.*

[77] JACOPO BOTTRIGARI. *Tractatus de testis*, ed. Gymnich, Tractatus…, fol. 14: *Et dicendum quod illis potius fides adhibetur, qui sunt in dignitati positi, quanto magis in maiore, tanto magis creditur. Imperatori magis quam presidi. Item magis nobili quam plebeio, magis honesto quam inhonesto, magis diviti quam pauperi.*

in the Christian community.

That this was expressed so bluntly during the fourteenth century can be explained by what Giacomo Todeschini has described as the progressively exclusionary dynamics of late mediaeval and early modern society. This was a moment that saw a highly selective socialisation, capable of totally or partially excluding a great part of the population from the highest forms of sociability, despite being nominally Christian or civil.[78]

Alongside other authors, G. Todeschini has shown how the concept of infamy was central to the forms of exclusion from public life, thus from the legal market, in all periods of the Middle Ages.[79] What remains pivotal is then the concept of *fama*, which is the legal expression of reputation. Infamy could take a very concrete form, as the consequence of being an infidel, a criminal, later a heretic, and so forth. But it could also take a less concrete form, as an inevitable entailment of an individual's objective or subjective condition. For instance, some jobs could give one a bad reputation, such as being a juggler, a joker, or a buffoon, as we have seen above in Louis the Pious capitulary. But this could also be the consequence of being a woman, or to be missing a body part, or, as we have shown throughout this study, of being poor and having a low social condition. This repertory is indeed partly derived from the conditions that early Canon law established as exclusionary from priesthood. However, when it comes to the low social condition and to poverty, Roman law principles of exclusion from the court applied, as we have seen. But the discredit of the poor was also influenced by the fact that the judge could not confirm the reputation of people who were not part of the social elite, *a priori* considered faithful and trustworthy. Their obscure origins were indeed enough to make people of a poor condition suspect of a bad reputation, or infamy.

When bribery became a subject of importance as to justifying the rejection of people of low social condition from the legal market, with Yves de Chartres, an important distinction was introduced. Poverty or low condition need not instantly mean infamy or vileness. Gratian however did not seem to develop on the matter. It was only toward the end of the twelfth century and the beginning of the thirteenth that this distinction was underlined and argued for. It is no coincidence that this was

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[78] TODESCHINI. *Au pays des sans nom…*, p. 25. (Translation is mine).

[79] TODESCHINI. *Au pays des sans nom…*, p. 90.

the juncture at which mediaeval Canon law developed further the concept of *fama*, thus of *infamia*, as a legal mechanism allowing a judge to open a cause *ex officio*, i.e., as indicatory evidence.[80] Therefrom *fama* was something that needed to be proved and that could be the object of an inquiry. This was valid in principle for accusers, denunciatory, but especially for witnesses. It makes perfect sense that the thirteenth-century thinkers we have studied argued for the distinction between the low social condition and the condition of infamy. If the witness or accuser was not stained by the concrete condition of *infamia*, i.e. he was not a drunkard, a criminal, an infidel, a heretic, then his infamy had to be proven, or at least need to be accompanied by a strong suspicion. And, as we saw above, apart from the cited repertory, what could bring infamy to someone of a low social condition was his proclivity to take bribery.

But as the fourteenth century closed in, the difference between the concrete condition of *infamia,* as a legal consequence, and the infamy brought upon someone by his subjective or objective conditions tended to blur. A bad reputation, related to someone's job, his/her condition as a stranger or his/her social condition, tends to overshadow this person's potentially honest, Christian life. The rise of cities, the development of local and international markets, and the further development of the idea of citizenship, as well as the consolidation of more centralised, control-directed legal institutions, made both public life and the legal market far more exclusionary. In this context, the distinction between vile and poor drawn by thirteenth-century jurists lost considerable strength. All poor people were suspicious, and they were so precisely, as it had been argued from the eleventh century, because they could be easily bribed. They were corruptible, now explicitly so. In this sense, it could be argued, however more proof would be needed to that effect, that the use of the Latin noun *corruptio* or the verb *corrumpere* to describe the bribing of the poor, in this particular context, is somehow related to the generalising idea that the poor were prone to sin and vice, i.e. that they were morally deficient, which is what the word *corruptio, corrumpere, -uptus* would more frequently denote until the end of the thirteenth century in the sources we have studied.

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80 THÉRY, Julien. Fama : l'opinion publique comme preuve judiciaire. Aperçu sur la révolution médiévale de l'inquisitoire (XIIe- XIVe siècles). In: LEMESLE, Bruno (ed.). *La preuve en justice de l'Antiquité à nos jours*. Vol. I. Rennes: Presses Universitaires de Rennes, 2003, p. 119-148.

## Final remarks

The theory of proof which prevailed after the thirteenth century, and which serves as the foundation of modern procedural theory in civil law—*mutatis mutandis,* conceives evidence as being extrinsic to the facts. If the object of a trial does not show itself in the most evident matter, what mediaeval jurists called notorious (*notorium)* and modern law calls flagrant, then any proof is but a *post hoc* reconstruction. It is imperfect. However, carefully administered, proof is what "sheds the light of truth over a fact which would otherwise remain in the dark".[81] It works only in the realm of doubt.[82] This is why jurists gave so much attention to the fact that witnesses have knowledge of the facts, because their testimony was the main means of reconstructing the truth of the matter. Medieval jurists after the twelfth century preferred witnesses over documental proof, which they saw as the opposition between *viva voce* and dead words. But because the content of truth in every deposition was paramount, jurists rejected witnesses *de auditu*, who only knew the facts by hearsay, and they demanded that witnesses had been present when events unfolded.

However, there were risks in basing the reconstruction of facts on testimonies, because witnesses could lie. This would pervert the entire process away from the known truth. For this reason, witnesses would have to swear before testifying that they would tell nothing but the truth. Such an oath would expose them to punishment for lying under oath or bearing false witness. But another means was conceived to prevent the perversion of justice, i.e., the examination of the suitability (*idoneitas*) of potential witnesses, which determined the admissibility of their deposition. Suitability was composed of two aspects: knowledge of the facts and trustworthiness, the latter being provable only through the examination of other witnesses who would attest to the main witness's reputation, his *fama*.[83] This is when all the restrictions studied in this paper come into play. According to thinkers like Thomas Aquinas, women couldn't testify because they were stupid. Minors could not testify because they had not yet gained reason. Infidels could not because it meant nothing to them to swear on relics or on the Scriptures; they were faithless. Servants could not testify because they would favour their masters. Enemies of either party could not because they would not

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[81] MADERO, M. *Façons de croire…*, p.98-199.

[82] FIORI, Roberto. *Bonus vir*. Politica, filosofia, retorica e diritto nel de officiis di Cicerone. Naples: Jovene, 2011.

[83] VALLERANI, Massimo. La fama nel processo tra costruzioni giuridiche e modelli sociali nel tardo Medioevo. In: PRODI, Paolo (ed.). *La fiducia secondo i linguaggi del potere*. Milan: Il Mulino, 2007, p. 93-112.

be impartial. Finally, those of the lowest conditions, serfs, and the poor, could not on account, first, of their obscure origins, then, of their corruptibility.

This restriction, though attenuated during the thirteenth century, became generalised in legal thought after the fourteenth, as social dynamics became increasingly exclusionary. And it was not lifted anytime soon after the end of the Middle Ages in the kingdoms highly influenced by Canon Law, i.e., the whole European continent. Andrea Alciatus, who published his Judiciary *Processus Compendium* in Milan in 1535 still rejected any witness on account of his condition. This text was retaken by the most famous manual used in Salamanca for educating future jurists and judges, composed by Pedro de Peralta in the middle of the 16th century.[84]

The same restrictions, taken almost verbatim from *Siete Partidas*, are still present in the most famous of Spanish procedural treatises of the seventeenth century, the *Curia Filippica* by Juan de Hevia Bolaños, published in 1603 and still in use by the end of the eighteenth century.[85] The shadow cast by Roman and Canon jurists over the humble man's word long endured, showing how a man's credibility was indeed related to his status, and showing as well that, in order to be corrupted, one did not need to occupy an office, have an honour or dignity. To be a witness meant to play a role of public concern, since the finding of the truth depended on the sincerity of one's deposition. To betray that duty in favour of one's personal gain came to be understood as an act of corruption. And the word itself, used to describe moral flaws until the thirteenth century in legal treatises, started being used to define venality and bribery, especially when referring to the poor who, as of that time and until the middle of the 20th century, were legally equalled to the vile.

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[84] PERALTA, Pedro de. Orden de proceder en las causas civiles y de appelacion y execuçion de la sentencia y de la cession de bienes. Yten del modo que se guarda en las causas criminales a peticion o de officio y del tormento. Compuesto por el doctor Peralta, catedratico de prima de Salamanca, 1566, Biblioteca Universitaria de Salamanca, Ms. 2590, 6, ed. María Paz Alfonso Romero, Theoria y praxis en la enseñanza del derecho: tratados y prácticas procesales en la Universidad de Salamanca a mediados del siglo XVI, en Salamanca, escuela de Juristas. Estudios sobre la enseñanza del derecho en el Antiguo Régimen, Madrid, Universidad Carlos III, 2012, p. 44-76, (especially, p. 52).

[85] HEVIA BOLAÑOS, Juan de. *Curia Filippica*, Madrid, 1725 [first ed. 1603], p. 60, n. 13.

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# Corruption, for whom?

What the sources say, what historians see

ALÉCIO NUNES FERNANDES[1]

The number of ministers and officials of the Portuguese Holy Office denounced for various deviant behaviours is quite considerable, with many of them ultimately prosecuted by the Tribunal itself — over a hundred, as far as I have been able to ascertain thus far. A significant portion of these inquisitorial agents was accused of committing "crimes", "offenses", "faults", or "guilts" that, in essence, could be associated with corrupt practices or moral deviations. However, depending on the set of documents analysed, the sources are not always clear enough to allow such association, which can only be perceived by comparing different typologies. On the other hand, even comparing different sets of documents — for example, on one hand, the inquisitorial regulations, and on the other hand, the processes — does not necessarily provide the historian with a 'mathematical' answer as to why certain practices of the inquisitorial agents were considered corrupt, while others — theoretically, with the same legal foundations — did not have the same outcome. Underlying those more properly legal questions, the political issues surrounding accusations of corruption do not always appear evident to the historian. If the goal is to understand how a particular institution dealt with accusations of corruption attributed to its agents — as is the case with this study — then the historian must exercise caution in their analyses, so as not to present as corrupt practices that, for various reasons, were not classified institutionally as such.

The discussions outlined here are part of an ongoing investigation aiming to analyse how the Portuguese Holy Office dealt with corruption of its agents throughout its history. The goal is to try to understand, not only in legal terms, but also politically, how the institution defined what was (or was not) classified as "corruption".

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## I. The compass and the map

Perhaps one of the greatest challenges for historians studying the problem of corruption is precisely this: to list, in historical perspective, the possible meanings of the term — because, just as it happens today, in the past, the word corruption had more than one meaning. When read in isolation, some historical document records do not allow for a more precise definition of what characterized a practice as corrupt because, depending on the type of primary source, the word corruption was almost never recorded. Furthermore, present-day concepts also contribute to the difficulty of historically defining the term. Often, scholars encounter in primary sources many practices now understood as corrupt, which does not mean they were perceived in the same way by historical actors, at least not directly. On the other hand, what was conceptualized as corruption in a certain historical period does not necessarily find equivalence in current definitions shared by historians. All these considerations — which apply not only to the study of corruption in the Portuguese Holy Office but also to other research subjects with the same theme — entail important historical problems. Is there corruption when it is not named? Who defines what is or is not corruption? What do the sources say? What do historians see? Although I do not yet have answers to such questions, they serve as a compass for me in this research.

One of the challenges for historians interested in investigating cases of corruption attributed to inquisitorial agents is to cope with the enormous volume of data to analyse, dispersed across different sets of documents. In addition to the obvious need to delve into judicial processes, it is necessary to be attentive to other sources, many of which are produced by the Portuguese Inquisition itself; others, such as institutional correspondence from the Monarchy, are sometimes quite illuminating regarding the historical-political context surrounding certain actions of the Tribunal. Royal letters, prosecutor's notebooks (*cadernos do promotor*), inquisitorial regulations (*regimentos*), books of "way of proceeding in the Holy Office" (*modo de proceder no Santo Ofício*), lists of *autos-da-fé*, and records of inspection visits to district courts and the court of Goa are some of the documents I have analysed to trace what I will call the 'corruption map' of the Tribunal.

In methodological terms, I had to develop some strategies to attempt an approach to the meanings that the institution attributed to the term "corruption" — this is because, despite the long list of crimes that the Inquisition claimed to be within its

jurisdiction, corrupt practices attributed to its ministers and officials did not precisely feature as one of them, except indirectly. The main strategy has been the analysis and comparison of the different sets of documents that compose the present investigation, with partial results presented in this paper.

## II. The regulations of the Portuguese Holy Office

Directly and indirectly, the regulations referred to two modalities of corruption. One of them was related to witnesses and the quality of evidence presented in court[2]. The other — which interests me more here — pertained to its own ministers and officials.

Although indirectly, the 1640 Regulation addresses the corruption of inquisitorial agents in two points. In the first, it establishes punishments for those who corrupt ministers and officials — theoretically, even the attempt was punishable. However, even though it refers to the corruptors — because the criminal conduct is *corrupting ministers* —, from the following passage, the possibility of corruption — passive, as we would say today — of the inquisitorial agents becomes very clear:

> Penalties for those who corrupt the ministers of the Holy Office
> And since **those who corrupt or attempt to corrupt the ministers and officials of the Holy Office, with entreaties, gifts, or bribes, are also hindrances and disturbers of the ministry of the Inquisition**, we order that, if any persons commit this crime, and what they seek to obtain from the ministers and officials of the Holy Office through this means is of a serious nature, they shall be sentenced to exile to one of the places of conquest of this kingdom for a period of two to five years, and if it is of a minor nature, the penalty shall be at the discretion of the inquisitors, who shall impose what seems appropriate, according to the quality of the guilty parties and the circumstances of their offenses.[3]

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[2] On this subject, see FERNANDES, Alécio Nunes. A corrupção na Mesa do Santo Ofício português. Algumas considerações. In: SANTOS, Camila dos; AGUIAR, Clarice Machado; e SILVA, Isabela Alves (orgs.). *Atas da II Jornada De Corruptione*. Brasília: Selo Caliandra, 2023, p. 92-102.

[3] Regulation of 1640, book III, title XXI, § 10, emphasis mine. In the original, it was registered as: "Penas dos que corrompem os ministros do Santo Ofício. E porquanto os que corrompem ou intentam corromper os ministros e oficiais do Santo Ofício, com rogos, dádivas ou peitas, são também impedientes e perturbadores do ministério da Inquisição, ordenamos que, cometendo algumas pessoas este crime, se o que por esta via procurarem alcançar dos ministros e oficiais do Santo Ofício for em matéria grave, sejam condenados em degredo para um dos lugares das conquistas deste reino por tempo de dois até cinco anos e, sendo em matéria leve, ficará a pena ao arbítrio dos inquisidores, que imporão a que parecer que convém, conforme a qualidade dos culpados e circunstâncias de suas culpas". I found a book of "way of proceeding in the Holy Office" where some defendants prosecuted for corrupting ministers and officials of the Tribunal are mentioned by name, along with their respective penalties. ANTT, TSO, CG, livro 41, folio 90. In some of these books, questions are prescribed to be asked in the *in genere* session, "for those who corrupt or attempt to corrupt the ministers and officials of the Holy Office". See, for example, ANTT, TSO, IL, books 73 (folios 39v-40r) and 75 (folios 37v-38r); and ANTT, TSO, CG, books 382 (folio 100) and 51 (un-numbered folios; images 146 and 147, from the document digitized by Digitarq).

In a second moment, the 1640 Regulation is even clearer regarding the corruption of ministers and officials of the Tribunal. However, even so, the conduct in question — revealing secrets of the Holy Office — is referred to indirectly: corruption is a 'hidden subject of the sentence', materializing through "malice, entreaties, or bribes":

> Penalties for ministers and officials of the Holy Office who reveal the secret
> If any minister or official of the Holy Office should be so forgetful of their obligation that, **through malice, entreaties, or bribes**, they reveal the secret of the Holy Office or do anything else to the detriment of their ministry, hindering and disturbing it in this manner, if the fault committed is of a serious nature, being an ecclesiastical minister, they shall be deprived of the office they hold and excluded from the service of the Holy Office and shall suffer other arbitrary penalties appropriate to their person, for which respect shall be had to the circumstances of the fault. And if they are officials, besides losing the office they hold in the Inquisition and being excluded in the same manner, they shall be sentenced to flogging and exile to the galleys, for the time deemed appropriate. And if the fault committed by either party is of a minor nature, what is ordered in book I, title 3, § 47, shall be done,[4]

## III. The books of "way of proceeding in the Holy Office"

A second important point in the 'corruption map' being outlined here is the books of "way of proceeding in the Holy Office". In these books, the corruption of inquisitorial agents is also associated with the crime of revealing secrets of the Tribunal, as in the Regulation of 1640. However, in such books, the corruption of ministers and officials takes on more dramatic contours, as it is elevated to the status of heresy. Revealing secrets of the Tribunal — a crime often committed in exchange for "gifts", "bribes", or even "money" terms frequently noted in denunciations of this nature — was conduct that had the power to transform feared representatives of Christian orthodoxy into dangerous suspects of feeling ill "towards our holy Catholic faith and the just proceedings of the Holy Office":

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[4] Regulation of 1640, book III, title XXI, § 9, emphasis mine. In the original, it was registered as: "Penas dos ministros e oficiais do Santo Ofício que revelem o segredo. Se houver algum ministro ou oficial do Santo Ofício tão esquecido de sua obrigação que, por malícia, rogos ou peitas, revele o segredo do Santo Ofício ou faça qualquer outra cousa em prejuízo de seu ministério, impedindo-o e perturbando-o por este modo, se a culpa que houver cometido for em matéria grave, sendo ministro eclesiástico, será privado do cargo que tiver e excluído do serviço do Santo Ofício e terá as mais penas arbitrárias que couberem na qualidade de sua pessoa, para as quais se terá respeito às circunstâncias da culpa. E sendo oficial, além de perder o ofício que tiver na Inquisição e ser excluído na mesma forma, será condenado em pena de açoites e degredado para as galés, pelo tempo que parecer. E se a culpa que uns e outros cometerem for em matéria leve, se fará o que fica ordenado no livro I, título 3º, § 47". Not coincidentally, this passage about the offense of *revealing secrets of the Holy Office* precedes the paragraph regarding the conduct of *corrupting ministers*.

*In genere* session
For the ministers of the Holy Office who reveal secrets

Ask if the Defendant knows that it is prohibited for all persons who have knowledge of the affairs and causes of the Holy Office and the resolutions taken therein, while still secret, to disclose such affairs, causes, and resolutions to anyone, **especially the ministers and officials of the Inquisition, who are bound by oath to this**.

[...] Ask if the Defendant remembers that on the day he was received into the service of the Inquisition, he promised to keep secret everything that, if revealed, could harm the Holy Office, and he obligated himself to this by oath.

Ask if the Defendant knows that warning guilty persons in matters of faith in the Holy Office gives them occasion to absent themselves, and they are not apprehended or punished for their faults, it favours their errors, and errors and shows that **he feels ill towards our holy Catholic faith and the procedures of the Holy Office**.

Ask if the Defendant disclosed to some persons the status of the cases of those who were imprisoned in the Inquisition for offenses against our holy Catholic faith, or others whose knowledge belongs to the Holy Office, and if he received any *reward* for this.

[…] It was said to him: and you are informed that at this Table there is information that you, the Defendant, after serving the Holy Office and having sworn to keep secret the matters that, if disclosed, could harm you, [revealed secrets of the Tribunal], from which arises a presumption of feeling ill towards our holy Catholic faith and the just procedures of the Holy Office.[5]

## IV. The judicial proceedings of the Portuguese Holy Office

In shaping the 'corruption map' of inquisitorial agents, a fundamental strategy has been to search for ministers and officials denounced to the Inquisition on the digital platform of the National Archive of Torre do Tombo — Digitarq. Using keywords such as "familiar", "commissioner", "notary", "guard", "alcaide", "bailiff's man", "revealing

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[5] ANTT, TSO, IL, book 73, folio 42, emphasis mine. In the original, it was registered as: "Sessão *in genere*. Para os ministros do Santo Ofício que revelam segredo. Perguntar se sabe ele Réu que está proibido a todas as pessoas que tiverem notícia dos negócios e causas do Santo Ofício e das resoluções que nele se tomam, estando ainda em segredo, descobrir os tais negócios, causas e resoluções a pessoa alguma, principalmente os ministros e oficiais da Inquisição, que com juramento disso se obrigam. [...] Perguntar se está ele Réu lembrado que no dia em que foi recebido ao serviço da Inquisição prometeu guardar segredo em tudo que, descobrindo-se, pudesse prejudicar o Santo Ofício, e a isso se obrigou com juramento. Perguntar se sabe ele Réu que avisar as pessoas culpadas no Santo Ofício em matérias da fé é dar-lhe[s] ocasião que se ausentem, e não sejam presas nem castigadas por suas culpas, é favorecer seus erros, e mostrar que sente mal de nossa santa fé católica e do procedimento do Santo Ofício. Perguntar se declarou ele Réu a algumas pessoas o estado das causas das que estavam presas na Inquisição por culpas contra nossa santa fé católica, ou outras cujo conhecimento pertence ao Santo Ofício, e se por isso recebeu algum prêmio. [...] Foi-lhe dito: e lhe fazem saber que nesta Mesa há informação que ele Réu, depois de servir o Santo Ofício e de haver prometido com juramento guardar segredo nas cousas que descobrindo-se lhe podiam prejudicar, [revelou segredos do Tribunal], de que resulta presunção de sentir mal de nossa santa fé católica e do justo procedimento do Santo Ofício". Similar texts can be found in ANTT, TSO, IL, book 75, folios 39v-40r; and in ANTT, TSO, CG, books 382, folio 102, and 51 (unnumbered folios; images 150 and 151 from the digitalization carried out by Digitarq).

secrets", among others, I have come across most of the names at my disposal, as well as the crimes they were accused of — albeit not without some setbacks[6].

Specifically, regarding corrupt practices and moral deviations, the group composed of alcaides (wardens), and guards of the inquisitorial prisons seems to have been the most targeted not only by accusations but also by judicial proceedings[7]. Primary sources indicate that such agents received "bribes", "gifts", and "money" from imprisoned defendants, as well as from their relatives and friends, allowing them communication among themselves and with the outside world[8]. Some agents were denounced for facilitating the entry of prohibited food and objects into the inquisitorial prisons. At least two guards were prosecuted for aiding in the escape of imprisoned defendants[9]. Lastly, I draw attention to cases where inquisitorial guards were accused of advising defendants on what and how to confess or whom to denounce, revealing the alleged progress of certain proceedings, as well as engaging in "indecent touches" (*tocamentos desonestos*) with some female defendants and uttering "loving and lascivious words" (*palavras amorosas e lascivas*) to them, sometimes even promising to mitigate the torment to which they would be subjected, apparently in exchange for sexual favours.[10]

In addition to those inquisitorial agents directly involved in dealing with defendants imprisoned by the Portuguese Holy Office — most of them, if not the overwhelming majority, composed of New Christians, easy prey for corrupt agents — other ministers and officials were also targeted with accusations of corruption or moral deviations (or both), with some of them ending up being prosecuted by the

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[6] There is a large amount number of documents under the custody of Tombo Tower in Lisbon that are yet to be digitized (or whose digitization has not been made available to the public). Regarding those from the Portuguese Holy Office, it seems that an exception is the processes of the Lisbon Inquisition, almost all of which have been digitized/made available. On the other hand, even in-person consultation of documents is not always possible, as many of them are in poor condition or undergoing restoration — at least that's the claim that many researchers often receive when their document access is denied. Lastly, one must be attentive to the classifications adopted in Digitarq, as they often do not coincide with those used in the Holy Office and recorded in the documents. For example, there are several documents classified as "process" by the digital platform of Torre do Tombo, but which consists of accusations against a particular defendant — which evidently does not diminish the historical value of the documents.

[7] João Furtado Martins studied several cases of corruption within the Holy Office, most of them involving alcaides and guards of the inquisitorial prisons. MARTINS, João Furtado. *Corrupção e incúria no Santo Ofício*: ministros e oficiais sob suspeita e julgamento. Lisboa: Universidade Católica Portuguesa, Centro de Estudos de História Religiosa, 2015.

[8] Cases such as that of Baltasar Teixeira, guard of the Inquisition of Lisbon, ANTT, TSO, IL, proc. 5107; Gaspar Francisco Ribeiro, guard of the Holy Office of Évora, ANTT, TSO, IE, proc. 528; and the warden of the prison of the Inquisition of Lisbon, Heitor Teixeira, ANTT, TSO, IL, proc. 8115.

[9] One of them was Domingos Gomes, guard of the Inquisition of Lisbon, ANTT, TSO, IL, proc. 12998.

[10] One of these cases is the process of João Álvares, guard of the Inquisition of Lisbon, ANTT, TSO, IL, proc. 11681.

institution. This includes some commissioners[11], familiars[12], and notaries[13]. However, what stands out most in this list is the absence of a specific group of Tribunal ministers.

Among the more than a hundred inquisitorial agents I found accused of various crimes, not only of corrupt practices or moral deviations, what caught my attention was the fact that there were — as far as I could ascertain — no deputies or inquisitors listed among those prosecuted by the Holy Office[14]. Such absence by no means suggests that the judges of the Tribunal were exempt from the temptations of the world, whether those related to the pleasures of the flesh or the lust for wealth and power.

The Inquisition was aware of the existence of corrupt judges within its ranks, not to mention those who sometimes exceeded in carrying out their duties, committing abuses that were not necessarily classified as corrupt practices — which is evidenced by records made by the institution in different documentary sets, such as prosecutor's notebooks, inspection visit books, and inquisitorial correspondence.

On the other hand, when addressing the faults committed by ministers and officials of the institution, neither the Regulation of 1640 nor the books of "way of proceeding in the Holy Office" excluded the possibility of the judges of the Tribunal themselves being punished for any deviations.

A clue that might help understand the possible absence of cases against judges of the Tribunal is presented in the *Directorium Inquisitorum*, where it was argued that there were only three reasons for the removal of an inquisitor, but it was

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[11] Regarding accusations of corruption against inquisitorial commissioners, see OLIVAL, Fernanda. Quando o Santo Ofício Processava os seus Comissários (Portugal, 1600-1773). In: GARRIDO, Álvaro; COSTA, Leonor Freire; DUARTE, Luís Miguel (orgs.). *Estudos em Homenagem a Joaquim Romero Magalhães*: Economia, Instituições e Império. Lisboa: Almedina, 2012, p. 179-195.

[12] Regarding corruption of familiars, see CALAINHO, Daniela Buono. *Agentes da fé*: familiares da Inquisição portuguesa no Brasil colonial. Bauru, SP: Edusc, 2006 (especially chapter 3).

[13] So far, I have found five cases against notaries of the Portuguese Holy Office. At least four of these agents were accused of practices that, directly or indirectly, the institution considered corrupt. I draw attention to two cases, that of Gaspar Clemente Botelho and that of Adrião da Fonseca, both notaries of the Inquisition of Lisbon. In a rare occurrence, the term "corruption" appears explicitly in the case against Gaspar Clemente Botelho, attributed to the behaviors imputed to the defendant. ANTT, TSO, IL, proc. 10793. Adrião da Fonseca, on the other hand, was the target of serious accusations. One of them is that, in exchange for money, he would have revealed secrets of the Tribunal to several New Christians. Additionally, Adrião would have given "eighty or one hundred doubloons" as a bribe to Belchior Veloso, servant of D. Fernão Martins Mascarenhas, at the time, general inquisitor — the accusation was made by a New Christian defendant who was imprisoned in the inquisitorial prisons. ANTT, TSO, IL, proc. 6918.

[14] However, it is important to emphasize that, in addition to crimes against the Catholic faith, the Holy Office was also the competent forum for judging civil and criminal cases involving its ministers and officials — including those of the deputies of the General Council. Giovanna Nardini transcribed an important source for the study of these proceedings. NARDINI, Giovanna. O privilégio de foro no Santo Ofício português: "Índice dos processos cíveis e crime" julgados pela Inquisição (1583-1703). *Revista de fontes*, Guarulhos, v. 09, n. 16, jul. de 2022, p. 1-80.

recommended to avoid punishing the transgressing judge, even in cases of corruption:

> It is convenient to group into three the reasons for removal. The inquisitor can be removed due to incapacity, negligence, and iniquity. *In the case of iniquity (understood as corruption for money, advantages, accumulation of goods or properties)*, it is the responsibility, currently [16th century], of the cardinals inquisitors general to remove the guilty inquisitor and condemn him to a penalty. In Spain, this power to remove and condemn lies in the hands of the president of the Inquisition (called the "Grand Inquisitor"). However, it is within the competence of the Pope, as holder of delegated authority, to directly remove without having to respect the lower instances. However, agreeing with St. Thomas (2.2.q.70, art. 2. ad arg.3), *let us remember that it is always better to avoid punishing the inquisitors, because with punishment, it is the institution that is affected*: thus, it will no longer be respected and feared by the ignorant populace (*populo stulto*)[15].

In any case, especially concerning the corruption of inquisitorial judges, it is necessary to broaden the field of analysis to other documents beyond just judicial proceedings, inquisitorial regulations, or books of "way of proceeding in the Holy Office".

## V. Inspection visits

An important aspect of the 'corruption map' within the Holy Office is the records related to inspection visits conducted in the district tribunals (of Coimbra, Évora, and Lisbon) as well as in the Inquisition of Goa, which were periodically determined by the General Council. These sources of invaluable worth enable us to catch a glimpse of "the virtues and miseries of the men who served the tribunals"[16] — more these than those, as demonstrated by the sources. Perhaps more than any other, this set of documents allows us to perceive how inquisitorial agents were subject to the weaknesses of the flesh and spirit, as well as to the temptations of the world. In this type of primary source, an interesting reversal occurs, especially concerning deputies and inquisitors: the judges of the Portuguese Holy Office not only become witnesses

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15 EYMERICH, Nicolau. *Directorium Inquisitorum*: Manual dos Inquisidores: Escrito por Nicolau Eymerich em 1376, revisto e ampliado por Francisco de La Peña em 1578. Rio de Janeiro: Rosa dos Ventos, Brasília: Fundação Universidade de Brasília, 1993, p. 188, emphasis mine. In the original, it was registered as: "convém agrupar em três os motivos da destituição. O inquisidor pode ser destituído por incapacidade, negligência e iniquidade. Em caso de iniquidade (entendendo-se por isto a corrupção por dinheiro, vantagens, acumulação de bens ou imóveis), cabe, atualmente [séc. XVI], aos cardeais inquisidores gerais destituir o inquisidor culpado e condenar-lhe a uma pena. Na Espanha, esse poder de destituir e condenar está nas mãos do presidente da Inquisição (chamado o "Grande Inquisidor"). Mas é da competência do Papa, enquanto detentor da autoridade delegada, poder destituir diretamente, sem ter que respeitar as instâncias inferiores. Porém, concordando com Santo Tomás (2.2.q.70, art. 2. ad arg.3), lembremos que é sempre melhor evitar punir os inquisidores, porque, com a punição, é a instituição que é atingida: logo ela não será mais respeitada e temida pela plebe ignara (*populo stulto*).

16 PEREIRA, Isaías da Rosa. Visitações à Inquisição de Lisboa nos meados do século XVII. (Separata). *Anais da Academia Portuguesa de História*, 2a série, v. 29, Lisboa, 1984, p. 141.

but also accused individuals. As witnesses, sometimes they lie even under oath, concealing the faults of their peers of which they are aware, even if such faults are "scandalous" and of "public fame" — and when caught lying, they offer what today we would call 'flimsy excuses' to justify their omissions and lies. As accused individuals, they reveal all their humanity — understood here in a broad sense —, being presented in the sources in images quite different from those that the Holy Office sought to promote of its key ministers.

Although we may not always have the record of the list of questions that should be asked to the witnesses in each of the visits — either because they were lost or not textually noted —, from the answers given by inquisitorial agents, it is possible to know some of the themes that concerned the General Council regarding the behaviour of ministers and officials. There is no doubt that corruption was one of them. This is because the agents were asked if they had any knowledge that any minister or official received "bribes" or revealed secrets[17] — practices that were almost never separate, as inferred by the analysis of both inquisitorial regulations and the books of "way of proceeding in the Holy Office". On the other hand, the possibility that ministers and officials had Jewish ancestry or even friendship with New Christians is a recurring topic in the records of the visits: throughout the history of the Tribunal, this group was the main target of the institution's judicial proceedings. Hence, it was not uncommon for suspicions of favouritism towards defendants classified as such to weigh on those who were accused of having "Jewish race" or close relations with New Christians, which presupposed the revelation of secrets of the institution, almost always in exchange for "bribes" or even "money".

In the first visit made by the General Council to the Inquisition of Lisbon in 1571, the deputy Antonio Martins was accused of having "friendship" with New Christians, some of whom were, in turn, friends or relatives of defendants whose cases were being processed in the Lisbon tribunal — the deputy even allegedly attempted to directly favour at least one defendant; according to witnesses, Antonio Martins

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[17] The concern about corruption among ministers and officials was also a common feature in the inspection visits conducted by the Spanish Inquisition. It is interesting to note that in the visit to the Inquisition of Barcelona in 1560, "nineteen questions (43%) were aimed at investigating whether there had been venality or bribes among the officials, whether there had been concealment of assets subject to confiscation, procedural irregularities due to favouritism, scams or thefts related to the receiver and his ministers, falsification or neglect in the books corresponding to the treasury, etc.". MORENO, Doris. La Inquisición vista desde dentro. La visita del licenciado Cervantes al Tribunal del Santo Oficio en Barcelona (1560). *Historia Social*, nº 32, 1998, p. 78.

engaged in trade with the Island of São Tomé through his New Christian contacts[18]. The notary João Velho was also accused of being "friend of New Christians", with whom he ate, drank, and had "conversation" — one witness even stated that João Velho's house resembled "a synagogue". The notary was also denounced for allegedly revealing secrets of the Tribunal, as well as for having "dishonest conversation" (*conversação desonesta*) with a woman (or two, depending on the versions), which was "public" and "scandalous".[19] There were also allegations that some officials received "bribes" to facilitate communication among prisoners and with the outside world. Finally, some of these officials were accused of being friends with and taking loans from New Christians, loans that were almost never repaid — generally, it was noted that the officials were poorly remunerated for their services in the Tribunal. It is interesting to note that, especially regarding the most serious accusations, there was no record of punishment against the deputy Antonio Martins or the notary João Velho — in the document where the actions to be taken as a consequence of the visit were recorded, only general recommendations were registered, and not punishments, seemingly "because this was the first visit that was ordered to be made in the said city [of Lisbon]".[20] However, Deputy Antonio Martins seems not to have advanced in his inquisitorial career.[21]

During the visit to the Inquisition of Goa in 1632,[22] by far the main target of the accusations was João Delgado Figueira, the principal inquisitor of that tribunal — political issues played an important role in the accusations presented during the inspection[23]. According to Francisco Bethencourt,

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[18] DIAS FARINHA, Maria do Carmo Jasmins. A primeira visita do Conselho Geral à Inquisição de Lisboa. *Cadernos História & Crítica*, Lisboa, 1988, p. 26-27.

[19] DIAS FARINHA, *op. cit*., p. 44-46.

[20] I highlight two of these recommendations: "all other officials shall be warned not to have conversation with New Christians, nor take credit or borrow from them [...]. The inquisitors shall warn the bailiff Damião Mendes that, from now on, he shall not take goods on credit from New Christians or suspicious persons, and if anything is owed, he shall pay it [...], and he should know that if he does the opposite, he will be punished for it, from which punishment we exempt him for now". DIAS FARINHA, *op. cit*., p. 58.

[21] His name appears only in the list of deputies of the Inquisition of Lisbon: "Antonio Martins, [became deputy] on December 10, 1565". FALBEL, Nachman. *O catálogo dos inquisidores de frei Pedro Monteiro e sua complementação por um autor desconhecido*. São Paulo: Centro de Estudos Judaicos, 1980, p. 86.

[22] According to Célia Tavares, "there are records of visitations to the tribunal of Goa in 1583, 1591, 1608, and 1632. Regarding the first three, there is not much information available, except for the names of the visitors: Friar Gaspar de Melo, Father Pedro Martins, bishop of Japan, and Archbishop Dom Aleixo, respectively". TAVARES, Célia Cristina da Silva. Inquisição ao avesso: a trajetória de um inquisidor a partir dos registros da Visitação ao Tribunal de Goa. *Topoi*, v. 10, n. 19, jul.-dez. 2009, p. 23.

[23] In addition to the text cited in the previous note, see also TAVIM, José Alberto Rodrigues da Silva. Um inquisidor inquirido: João Delgado Figueira e o seu *Reportorio*, no contexto da "documentação sobre a Inquisição de Goa". *Leituras*: Rev. Bibl. Nac. Lisboa, S. 3, n. 1. Abril-Out. 1997, p. 183-193.

> *João Delgado Figueira was accused of more than a hundred infractions*, including abuse of power towards prisoners and officials, *improperly taking money from the treasury*, possessing secret documents of the tribunal in his house, arbitrarily imprisoning personal enemies, constantly provoking conflicts with civil authorities, and interfering in the elections of provincial leaders of religious orders.[24]

It is important to emphasize that, despite the gravity of the accusations levelled against him, João Delgado does not seem to have suffered any punishment, having pursued an important career in the Holy Office and even beyond it.

Among the various questions formulated during the inspection visits, agents of the Portuguese Holy Office were asked about the "life, honesty, and integrity of their ministers".[25] Regarding the visitation from 1649 to 1651 to the Inquisition of Lisbon, Isaías da Rosa Pereira draws attention to the cases of two judges of the Tribunal "suspected of leading a morally questionable life".[26] One of them, the inquisitor Luís Álvares da Rocha, was denounced for having an "illicit relationship" (*trato ilícito*) with Juliana Pereira, a baker of the Inquisition, with whom he allegedly had a daughter[27] — among the ministers of the Lisbon Holy Office, there was much "murmuring" about this relationship.[28] On the other hand, the deputy Martim Afonso de Melo was accused of maintaining an "illicit conversation" (*ilícita* conversação) with a woman, who was suspected of being the mother of at least one of his children.[29] Both cases were, apparently, scandalous, as at least two inquisitors, one deputy, and the prosecutor of the Inquisition of Lisbon were said to be aware of them. According to the Portuguese historian, "no resolution of the General Council regarding such serious and delicate matters is known",[30] and it is possible that they were treated secretly. However, it is known that both Martim Afonso de Melo and Luís Álvares da Rocha continued to

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[24] BETHENCOURT, Francisco. *História das Inquisições*: Portugal, Espanha e Itália. Séculos XIV-XIX. São Paulo: Companhia das Letras, 2004, p. 194-195, emphasis mine.

[25] PEREIRA, Isaías da Rosa, *op. cit.*, p. 161. Referring to the Spanish Holy Office, Francisco Bethencourt lists some of the questions that were asked to inquisitorial agents during inspection visits: "**which inquisitors have concubines** or violate the vow of chastity, **who discovered the secrets of the tribunal**, **who received gifts to favour the accused**, **who warned the relatives of the detainees, whether there are officials who embezzle confiscated goods,** if the employees respect the established schedules". BETHENCOURT, Francisco, *op. cit.*, p. 191, emphasis mine. It is likely that similar questions were also formulated during inspection visits promoted by the Portuguese Inquisition.

[26] PEREIRA, Isaías da Rosa, *op. cit.*, p. 149.

[27] PEREIRA, Isaías da Rosa, *op. cit.*, p. 193.

[28] PEREIRA, Isaías da Rosa, *op. cit.*, p. 184.

[29] PEREIRA, Isaías da Rosa, *op. cit.*, p. 192.

[30] PEREIRA, Isaías da Rosa, *op. cit.*, p. 151.

perform their functions in the Holy Office of Lisbon — the latter even became a deputy of the General Council in January 1656.[31]

Regarding the inspection visit conducted between 1658 and 1659, also to the Inquisition of Lisbon, Isaías da Rosa Pereira draws attention to an accusation made by the inquisitor Cristóvão de Andrade against his colleague from the Inquisition of Coimbra, Alexandre da Silva: there was "public rumour" that the inquisitor "suffered from a defect in blood purity"[32] — in other words, the accusation was that New Christian blood ran in the veins of inquisitor Alexandre da Silva, which, according to the informant, could be confirmed by several people from different places. Regarding this accusation, the General Council decided that: "when visiting that Inquisition [of Coimbra], the visitor shall be entrusted to, with the caution required, investigate this matter"[33] — the institution was aware of the existence of ministers and officials with socially recognized New Christian ancestry, as pointed out by various sets of documents. However, there is no record of the inquisitor suffering any punishment. Quite the opposite. He had a successful career within the hierarchy of the Tribunal, even reaching the prestigious position of deputy of the General Council[34] — joining the inquisitorial career was one way to 'cleanse' the blood of members of more important families, with political power to do so.

Finally, it is important to say a few words about a visit made to the Coimbra inquisition, a visit that became known in historiography through the writings of António Baião. Some examples seem to illustrate well that, depending on the perspective, the same practice could be considered condemnable or, in a different sense, understood as licit. One of the witnesses heard in the investigation denounced that it was "public voice and fame that Dom Miguel de Castro, an inquisitor who was in this Mesa [of Coimbra], and now [is] in the Mesa of the General Council of the Holy Office, has and possesses the library that belonged to Mateus Lopes, doctor, canon, relaxed to a statue". He also denounced that, "by order of the general inquisitor bishop [at the time, Dom Fernão Martins Mascarenhas]", for many years the library that belonged to António Homem — one of the most famous defendants of the

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[31] FALBEL, Nachman, *op. cit.*, p. 177.

[32] PEREIRA, Isaías da Rosa, *op. cit.*, p. 202.

[33] PEREIRA, Isaías da Rosa, *op. cit.*, p. 219.

[34] "Alexandre da Silva, Canon of Braga, Deputy, and Prosecutor in Lisbon on January 11, 1648. He was an Inquisitor of Coimbra, Deputy of the General Council and Bishop of Elvas". FALBEL, Nachman, *op. cit.*, p. 92.

Portuguese Inquisition — was kept in the Royal College of São Paulo of the University of Coimbra[35]. Another witness stated that the library that belonged to the defendant Francisco Vaz de Gouveia was in the possession of Sebastião César, a deputy of the Holy Office. These examples are sufficient for the argument to be constructed here: specifically in the case of the defendants' libraries, it is possible that such practices were not institutionally seen as corrupt. It seems that, in the eyes of the Tribunal, the fact that the institution seized the assets of those classified as heretics was considered a licit practice — which does not mean that any potential abuses went unpunished. And such an interpretation was shared by the Monarchy, as can be inferred from a letter sent to the Holy Office by the Portuguese monarch:

> Reverend Bishop, Inquisitor-General, my friend. I, the King, send you greetings. I have understood that from the libraries of some individuals whose assets were confiscated by sentences of the Holy Office, the Patriarch and Bishops of Ethiopia may be accommodated with the books they need for their mission, and because it will be pleasing to me and will bring me contentment for this to be done, it seemed appropriate to inform you of this by means of this letter and to request that, in the best manner possible, you endeavour to provide them with the necessary books and inform me of what is done, sending me a record of all that is given to them. Written in Madrid on February 23, [1]623.[36]

## VI. The correspondence of the Tribunal

Historiography appears to still lack complete data on the inspection visits that occurred in the district courts and in the Inquisition of Goa[37], even though it is certain that the periodicity established in the Regulations of the General Council for the execution of such visits has not been respected — theoretically, they should occur every three years. However, it is possible to know about the existence of some of them through another set of documents, which also compose the here outlined 'map of corruption'. This set of documents is the correspondence of the Tribunal.

Through the letters exchanged between the Inquisition and the Portuguese

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[35] BAIÃO, António. A devassa de 1628: Inquisição Coimbrã (Separata). *Arquivo de história e bibliografia*, vol. 1. Coimbra: Imprensa da Universidade, 1923, p. 5.

[36] PEREIRA, Isaías da Rosa, *op. cit.*, p. 128. In the original, it was registered as: "Reverendo Bispo Inquisidor-Geral, amigo. Eu El Rei vos envio muito saudar. Tenho entendido que das livrarias de algumas pessoas cujos bens foram confiscados por sentenças dos Santo Ofício se podem acomodar o Patriarca e Bispos de Etiópia dos livros que hão mister para sua missão, e porque eu me haverei por servido e receberei contentamento de que se faça assim, me pareceu dizer-vo-lo [sic] por esta carta e encomendar-vos que na melhor forma que houver lugar, procureis provê-los dos livros que são necessários e me aviseis do que se fizer, enviando-me memória de todos os que se lhe derem. Escrita em Madrid a 23 de Fevereiro de [1]623".

[37] Francisco Bethencourt provides an overview of the available numbers. BETHENCOURT, Francisco, *op. cit.*, p. 192.

Monarchy, we learn that inspection visits could also occur due to political pressure from certain groups on the monarch, who in turn pressured the Tribunal[38]. Some of these letters record that, between 1630 and 1632, Dom Francisco de Castro, at the time the inquisitor general of the Holy Office, personally visited the three inquisitions of the kingdom. I draw attention to a particular point of these visits: the possible punishments imposed on deputies and inquisitors, who, in the view of the inquisitor general, had committed "faults", precisely because of their humanity:

> During the visit to the courts, it was conveyed to me through extensive discussions that the Regulations and practices of the Holy Office were entirely in accordance with the law, and that the norm in all inquisitions was to uphold them with great desire for correctness. **However, since these Tribunals, although holy, consist of men, I found in some of them certain faults**, which I will explain below, addressing the ministers […].[39]

This type of primary source allows us to ascertain that, despite the absence of judicial processes, deputies and inquisitors could indeed be institutionally punished for their "faults" — at the very least, removed from their positions. This is attested by the correspondence of the Tribunal — although we cannot identify the identity of the punished ministers through it, this can be resolved by cross-referencing it with other primary sources. The letters indicate that, in addition to minor faults such as failure to comply with the established service hours, unauthorized absences, failure to observe procedural deadlines, and failure to fulfil the obligation to visit the inquisitorial prisons, among others, there were also more serious ones — never specified in the consulted sources, just as it happened regarding the identity of the offenders. However, it is certain that there are not a few cases of ministers being removed from their positions by the Tribunal, apparently 'administratively' — i.e., without recourse to judicial proceedings. Some officials did not escape punishment either:

> In Coimbra, I dismissed one inquisitor for exceeding in some matters with indiscreet zeal, retired two deputies for being old and sick, ordered those eight deputies not be called to the Mesa, and deprived the prison warden and three other lower officials of their offices. In Évora, I dismissed an inquisitor

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[38] This is confirmed by the letter sent by the inquisitor general, Dom Francisco de Castro, to the Portuguese monarch: "on November 14, 1629, while in Castelo Branco, I received two letters from Your Majesty, dated August 21, in which Your Majesty ordered me, due to various complaints that the Hebrew nation had represented to Your Majesty against some ministers of the Holy Office, their styles and instructions, to personally inspect and visit all the inquisitions and, with particular care, inquire about the matters addressed in the said letters; and that, whatever resulted from the visits, I would report to Your Majesty, through the hands of the Count-Duke, what seemed appropriate based on them". BAIÃO, António. El-Rei D. João IV e a Inquisição (Separata). *Anais da Academia Portuguesa da História*. Ciclo da Restauração de Portugal, v. 6, 1942, Lisboa, p. 15.

[39] BAIÃO, António. El-Rei D. João IV e a Inquisição, p. 17, emphasis mine.

for being incapable of his office, although he was a man of virtue and example, but he was a canon and neglected his church duties, not being fit to serve in the Inquisition, and I ordered those six deputies not be called to it. Similarly, I ordered those eight deputies not be called to the Inquisition of Lisbon. In these cases, and others, I made this decision for just considerations of the service of God and Your Majesty, and there are enough without them for the service of God and Your Majesty and [...] of the Holy Office. And the prison warden and guards of the same Inquisition were punished as they deserved and deprived of their offices, for giving warnings outside and to the prisoners, greatly prejudicing the justice and the secrecy of the Holy Office[40].

Through the letters, one can also perceive the inquisitor general's resistance to acknowledging the "faults" of deputies and inquisitors. On the other hand, once again, the humanity of the ministers is emphasized to justify them:

Regarding a minister who has passed away, some fault was found, which was not sufficiently proven. However, even if it had been proven, the fault of one individual cannot reflect on the entirety of the Tribunals, because only those composed of angels could be without fault in all their ministers[41].

## VII. The monarch's correspondence

Rich in possibilities, another set of documents that is part of the 'map of corruption' is the correspondence sent to the Portuguese monarch — and I am not referring to that institutionally crafted by the Inquisition.

Perhaps the most important case of corruption in the Tribunal known to historiography relates to a memorial anonymously sent to the Portuguese monarch in 1623[42] — as pointed out by Ana Isabel López-Salazar Codes, the author of the allegations certainly was (or had been) a minister of the Tribunal, likely having the support of some of his peers in the preparation of the document.

The voluminous memorial — 15 pages, written in small and careful handwriting — listed serious accusations against ministers and officials of the three district tribunals of the Portuguese Holy Office. However, the main target of the document was none other than Dom Fernão Martins Mascarenhas, at the time the inquisitor general of the Tribunal. Ana Isabel López-Salazar Codes points out that, according to the memorial,

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[40] BAIÃO, António. El-Rei D. João IV e a Inquisição, p. 17-18.

[41] BAIÃO, António. El-Rei D. João IV e a Inquisição, p. 18.

[42] For a detailed analysis of the case, refer to RÊGO, João Manuel Vaz Monteiro de Figueirôa. "A honra alheia por um fio". Os estatutos de limpeza de sangue no espaço de expressão Ibérica (sécs. XVI- XVIII). Tese de doutorado em História. Universidade do Minho, 2009, p.  372-395; e LÓPEZ-SALAZAR CODES, Ana Isabel. *Inquisición y política*. El gobierno del Santo Oficio en el Portugal de los Austrias (1578-1653). Lisboa: Universidade Católica Portuguesa, Centro de Estudos de História Religiosa, 2011, p. 61-73.

> the person who truly governed the Holy Office was Belchior Veloso, a servant of the inquisitor general. Apparently, Mascarenhas would have created numerous supernumerary positions and appointed individuals who did not meet the necessary requirements to fill them, such as minors, those without academic degrees, public sinners, or, above all, New Christians. These individuals would have purchased the position from Belchior Veloso. Additionally, according to the informant, Mascarenhas would waive all penalties and penances imposed by the inquisitors in exchange for money given to Veloso. The document accused the inquisitor general of being a friend of the converts and even hinted that he maintained a certain emotional relationship with his servant[43].

Surprising, the document pointed out corruption not only of "some individuals" — to use the expression of Dom Francisco de Castro — but indeed it struck the institution as a whole. I would draw your attention to one point. At least in one of the accusations, the informant seems to have been accurate: during the time of Dom Fernão Martins Mascarenhas, the Tribunal had created supernumerary deputy positions in a much larger number than necessary — as confirmed by the letter sent to the monarch in 1632 by the then inquisitor general, Dom Francisco de Castro, five years after the presentation of the infamous memorial. Indeed, supposing that these deputies had offered some amount to the institution in exchange for their appointments in the Holy Office — as denounced by the informant — could the historian take the practice as evidence of corruption in the Tribunal? In my view, it is precisely the opposite.

A hypothesis to consider suggests that, far from being considered as corrupt, such a practice was institutionally understood as virtuous. That's what can be inferred from a set of letters sent by the Monarchy to the Tribunal in the early 17th century. From the letters, it is evident that the Holy Office was repeatedly urged to contribute with the money from the coffers controlled by the institution in the Monarchy's efforts to deal with the "relief of India" (*socorro da Índia*) — there are several letters to this effect. I cite an example:

> Reverend Bishop Inquisitor-General, my friend. I, the King, greet you warmly. I received your letter dated the 18th of last month in which you informed me of how you had delivered *eighty thousand cruzados from the revenue for the relief of India to the order of the governors, seeking part of it as a loan on your word,* and the rest you had caused to be given for other occasions of the service of the King my lord and father, whom God has. Because I find myself well served by you in this matter, as I hope I will be in everything that passes through your hands, I thought it fitting to tell you so, and you can be certain

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[43] LÓPEZ-SALAZAR CODES, Ana Isabel, *op. cit.*, p. 62.

that I will always have the due remembrance of your person and merits. Written in Aranjuez on the 25th of April, [1]622.[44]

According to his own statements, D. Fernão Martins Mascarenhas would have provided the Crown with around 400,000 cruzados during the time he held the position of inquisitor general of the Portuguese Holy Office, which demonstrates that he was an important political ally of the monarch for much of that period.

## VIII. The prosecutor's notebooks

The prosecutor's notebooks are the final coordinate of the 'map of corruption' in the Holy Office to which I will refer in this text — however, there are still others to explore, such as the lists of *autos-da-fé*. A very extensive set of documents, it requires patient reading work — sometimes quite difficult, due to the different handwriting styles recorded in this type of source — so that, not without some luck, we can find one or another accusation against inquisitorial agents.

As I pointed out elsewhere[45], some of the accusations present in this set of documents suggest that the Portuguese Holy Office had other ways of punishing its transgressive ministers and officials, not only through judicial processes.

## Final considerations

The various sets of documents analysed here record different behaviours of ministers and officials of the Portuguese Holy Office that, in theory or in practice, could be institutionally classified as corrupt or as deviations from moral order. However, such classification depended on several elements, not only on framing the behaviours in inquisitorial legislation — which is not surprising, because even today laws do not apply mathematically. In isolation, not even the veracity of the allegations

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[44] PEREIRA, Isaías da Rosa. *A Inquisição em Portugal*: séculos XVI-XVII. Coleção: Documenta Historica. Lisboa: Vega, 1993, p. 124 (documento 137), emphasis mine. . In the original, it was registered as: "Reverendo Bispo In-quisidor-Geral, amigo. Eu El Rei vos envio muito saudar. Vi a vossa carta de 18 do mês passado em que me destes conta de como fizéreis entregar à ordem dos governadores oitenta mil cruzados do dinheiro procedido do fisco para o socorro da Índia, buscando parte emprestado sobre vossa palavra, e o mais que depois que servis o cargo de Inquisidor-Geral desses Reinos fizestes dar para outras ocasiões do serviço del Rei meu senhor e pai, que Deus tem, e porque nesta matéria me acho bem servido de vós, como espero que o serei em tudo que corre por vossas mãos, me pareceu dizer-vo-lo [sic] assim e que podeis estar certo de que terei sempre de vossa pessoa e merecimentos a devida lembrança. Escrita em Aranjuez a 25 de Abril de [1]622".

[45] FERNANDES, Alécio Nunes. A corrupção dos juízes: análise de algumas denúncias contra visitadores do Santo Ofício ao Brasil. In: COELHO, Maria Filomena; RUST, Leandro (orgs.). *I Encontro De Corruptione*: atas. Brasília: Universidade de Brasília, 2022, p. 94-104. Available at: https://drive.google.com/file/d/1-Vh2r1U8VIEI4I6VSQogeRKBmgSxqmXK/view?usp=sharing. Accessed: June 20, 2024.

would be sufficient for a particular inquisitorial agent to be institutionally recognized and punished as "corrupt".

Separately, two of these sets — the regulations and the books of "way of proceeding in the Holy Office" — suggest a procedural rigor that, in practice, was not always observed, especially if the alleged faults were attributed to ministers of the Tribunal — according to the sources, notaries, deputies, inquisitors, and deputies of the General Council fell into this group. The higher one climbed in the hierarchy of the Tribunal, the greater the chance that the institution itself would be tarnished in its image, either by punishing or not punishing ministers and officials, in cases where there were sufficient elements to condemn them more severely, which was also calibrated by public rumour — a concern materialized in the judicial processes of the Holy Office in not a few "foram vistos", documents in which each of the votes of the inquisitorial judges in defining the sentences was meticulously noted.

In addition to those more properly legal, not always evident, political issues also had a determining weight in the difficult task of establishing, in practice, how corrupt or morally condemnable certain behaviours could be. There were also two very close factors that were not easily controllable by political actors with decision-making power — whether they were from the Tribunal, the Church, or the Monarchy. True or not, depending on the extent to which allegations of corruption or moral deviations gained prominence when they became known, scandal and "public reputation" (*fama pública*) could force institutions to take actions that, in normal situations, would typically be avoided.

On the other hand, depending on the political compositions, which were not always stable or enduring, certain practices that in theory were considered transgressive could be silenced, relegated to oblivion, or even interpreted in the opposite sense: corruption and virtue were politically shaped concepts — which by no means implies that judicial processes were a farce, much less for the institution itself; nor does it mean denying the fact that a good part of the inquisitorial agents considered guilty received, not infrequently, harsh punishments for their behaviours.

There is no doubt that institutionally the Holy Office was concerned (a lot!) with corruption and the moral deviations of its agents: this is confirmed by the various proceedings brought especially against guards, jailers, commissioners, familiars, and notaries. On the other hand, particularly considering the inspection visit books and

the Tribunal's correspondence, it seems clear that, as a rule, the institution almost always sought to prevent the faults of its most important ministers from being made public. However, this does not mean that, in cases considered serious, the Tribunal judges were exempt from punishment, although apparently none of them were judicially prosecuted, either for corrupt practices or moral deviations — one hypothesis that remains to be proven is that removal from office, whether temporary or permanent, was the most common imposed penalty on offending judges.

On their own, allegations of corruption, moral deviations, or even of being of New Christian ascent were not sufficient to prevent the professional advancement of Tribunal ministers. Like "purity of blood", corruption attributed to agents, especially deputies and inquisitors, was socially constructed, dependent on political conjunctures and social networks to which the historical actors belonged — illustrative cases being those of João Delgado Figueira, Luís Álvares da Rocha, and Alexandre da Silva, who despite the accusations they faced, had successful careers in the Tribunal (and even beyond).

It is important to note that none of the groups that made up the hierarchy of the Tribunal were free from accusations, of greater or lesser seriousness, whether they were related to corrupt practices, moral deviations, or "Jewish" ancestry — some were also accused of having "friendship" with New Christians. Guards, wardens, familiars, commissioners, notaries, deputies, inquisitors, and even inquisitors-general: in all these groups, it is possible to find accusations against more than one individual. However, the historian needs to be careful not to blindly rely on them, seeing corruption where perhaps it did not exist. After all, true or not, accusations of corruption — in a broad sense — were (or could be) instrumentalized in various ways by historical actors, for example, in the form of personal vendettas and power struggles. Moreover, the fact that an accusation was serious did not have (never had and still does not have) a direct relationship with its possible truthfulness.

We began and end with the question that gives the title to this paper. Corruption, for whom? For the historical actors? For the Tribunal? For historians? The answer to such questions is far from easily formulated. However, at times, it speaks more about the historian's present than about the past of the institutions.

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# Vices and virtues, money, and the execution of public office in Portuguese domains

ROBERTA STUMPF[1]

The topic of political corruption is frequently reprised in Portuguese, Brazilian and international news, and newspapers. This "proximity" can often make it difficult to understand this subject when casting our gaze back to earlier times. The problem of anachronism has long been known to historians who study political corruption and, despite being aware of the problem, they are not always able to avoid it. Therefore, best practice is to ask the question we broach at the outset of this text: Were 'corrupt' individuals operating in the political sphere always known for engaging in the same type of activity that we associate with them today?

The answer is obviously no. The period between the early modern era and the contemporary setting witnessed the advent of the liberal, secular state, and ideas emerged in favour of a more egalitarian, free society in opposition to maintaining legal privileges. The pace of transformation has been slower than that promised by the revolutions of the end of the 18th century, but liberalism has been consolidated in the West and the privileges enshrined in a broad set of legal rules have come to be abolished by law.[2] These and other changes have led to a profoundly negative perception of some political practices that, before the liberal state, were not seen as corrupt – quite the opposite; some even had legal grounds.

In the 19th century, the denunciation of corruption was certainly associated with the manipulation of elections and vote buying, for example, which constituted a

highly recurrent theme in advertising and the press in states with liberal political systems. Although recurrent, such practices had absolutely no basis in legitimacy, as they went against the idea of individual independence associated with the new notion of political citizenship. Corruption was therefore a political theme that went hand in hand with contemporary political history in many ways. The greatest development was that it now became easier to define what was or was not legitimate. Naturally, this 19th-century indignation was heightened by the fact that there were practices in evidence which were presumed to have been associated with the previous political regime, in which they would have been widely safeguarded and accepted: clientelism, nepotism, venality and patrimonialization of offices, for example.

Let us thus return to the starting point and address the above question to the chronological and spatial scope of this study: regardless of its designation, what was considered political-administrative corruption in Portugal and Portuguese America in the 18th and early 19th centuries? In the strict sense, it was seen as the immoral, rather than illegal, conduct of those who held a royal appointment. However, as suggested by Adriana Romeiro, the term "corruption" was used to refer to the effects of these practices, and not the actions themselves,[3] which is why, according to Romeiro, "corruption of the Republic" was referred to, rather than "corrupt practices." The Republic was considered a political body and the word "corruption" was associated with what degraded the essential nature of this body, so its meaning could very generic and inexact.

For this reason, the focus in the first part of this chapter will be on an analysis of what most commonly appears as *abuse* or *misuse of power* in the sources.[4] The intention is also to ascertain which men were deemed best qualified to serve the monarchy and resist such deviations, and, finally, role which was attributed to money when referring to the vices and virtues of these officials.

As for the two above expressions, the idea that there were limits that governors should not exceed, a straight path from which one was encouraged not to deviate,

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[3] ROMEIRO, Adriana. *Corrupção e poder no Brasil:* Uma história, séculos XVI a XVIII. Belo Horizonte: Autêntica, 2017.

[4] In recent years, we have focused on the study of means of controlling the actions of officials of the Portuguese monarchy and the complaints received by the Overseas Council by subjects residing in the Americas in the 18th century. Most of these sources come from the collections of the Arquivo Histórico Ultramarino [AHU] and the Arquivo Nacional da Torre do Tombo [ANTT]. The term corruption (*corrupção*) is rarely used in this documentation, and when it appears, it is mostly associated with the idea of degradation of nature or physical degeneration, its original meanings.

seems evident. Knowing what these limits were and where the border lay that separated righteousness from illegality is at the root of the complexity of this object of study.[5] On one hand, answers can be sought by analysing specific contexts, as case studies provide an understanding of what constituted abuse of power. On the other hand, one must not succumb to extreme relativism, which is often fruitless; this is why it should be recognized that there was a common conception of what good government was – a collectively shared ideal that obliged authorities to base their conduct on satisfying royal interests and the achieving the common good (*bem comum*).[6]

The offices were uniquely specific in their duties and respective privileges, but governors were assessed according to parameters which applied to all the monarch's representatives. However, this commitment on the part of officials could be subject to corruption by acting for their own benefit and taking advantage of the autonomy granted to them to govern, essential in an empire of immeasurable distances. Against this breach of trust,[7] affecting order as a whole, it was crucial for the monarch to employ of men of virtue who would guarantee proper governance in Portuguese territories, as well as using strategies to control the officialdom, among which there were complaints presented by his subjects.

The dynamic of gift and counter-gift certainly contributed to a portion of the officialdom striving to act in a meritorious fashion, in the hope that their virtuous behaviour would be rewarded by the monarch, while other officials acted according to with their own interests and sought to accrue gains elsewhere. Regardless of their conduct, the model of virtue of man and servant, as well as its reverse, was known and served a disciplinary purpose in many contexts. It was disseminated in many forms, ranging from the reading of legal, treaty and normative texts, to the local, formal inspection of officials. The magistrate responsible for conducting these was

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[5] COELHO, Maria Filomena. Corruption in the Middle Ages…, this volume.

[6] ORELLANA SÁNCHEZ, Juan Carlos; VELASCO PEDRAZA, Julián Andrei de. Editorial Historia de la corrupción en el imperio español. *Historia y Memoria*. Nº. 19. 2019, p. 11- 22.

[7] 'The definition of both corruption and office was influenced by the notion of trust—and its inverse, distrust. Trust, as the fiduciary concept of entrusting power to an agent, became a keyway of thinking about office, from the mid-seventeenth century onwards. (…) When an officer was entrusted with certain duties and powers, he was expected to perform well, in the interests of the entrusted and the public. (…) Entrusted power, with its level of discretionary action and reliance on an agent who certainly had his own interests, was always open to abuse at both the institutional and personal level. Whilst the trust implied a confidence that abuse of the entrusted power would not happen, it could not guarantee this. Moreover, although social, interpersonal trust between officers and the wider world was often consolidated by practices of friendship, gifts giving, and patronage, these were highly vulnerable to allegations of corruption'. KNIGHTS, Mark. *Trust and distrust. Corruption in Office in Britain and its Empire, 1600–1850*. Oxford: Oxford University Press, 2021, p. 8.

equipped with a list of questions (pre-prepared or otherwise) that once again made explicit what the monarchy expected from its representatives.

In the Portuguese Americas, for example, subjects could register a complaint in the *residências* (scrutiny undertaken by the Portuguese monarchy on the magistrates and governors of the captaincies at the end of their terms), as well as in the inspection visit (*correição*) that ombudsmen (*ouvidores*)[8] made in the districts under their jurisdiction, which also included inspections by municipal officials. However, while there was an opportunity to present complaints against agents of different *status*, grievances were preferentially presented in other ways, especially through (complainant) petitions to the Overseas Council (*Conselho Ultramarino*),[9] which could require opening of inquiries (*devassas*) to establish whether there was any basis of truth. There is no space here to expand upon the debate over the efficiency of these means of combating abuses of power. In any case, we do not share the theory that the monarchy systematically turned a blind eye or was lenient with those who strayed outside the desired parameters, as if convinced that governance could not be done any other way.[10] The demands projected today for pre-modern states prevent us from seeing that their performance depended on many factors, including the very idea of what good government was and how it evolved, as well as the conception of a diligent officer. In both cases, despite the existence of a common reference at the time, it was perfectly legitimate for judgments to be subject to geographic and chronological variation. The lack of a consistent assessment for agents' conduct was not a flaw, but the capacity for adaptation and flexibility in the face of plural circumstances. The law of the time, up to *pombalismo*,[11] considered that a considerable amount of casuistry and adaptation to local customs was acceptable.[12]

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[8] The *ouvidores* were crown magistrates whose area of authority was the districts — *comarcas* — or second instance courts of justice).

[9] On the right to petition complaints about abuse of power, see Fernandes, Renata. 'O Conselho Ultramarino e as queixas e agravos do ultramar português (Minas Gerais, 1750-1808)', *Revista de História*. São Paulo, n. 181, a04321, 2022. http://dx.doi.org/10.11606/issn.2316-9141.rh.2022.183693. See also *Dossier Circuitos oceânicos: as petições ultramarinas e comunicação política* (Iberian America, 18th & 19th centuries) with text by Andrea Slemian, Roberta Stumpf and Renata Fernandes. *Almanack*, n. 34, 2023. https://periodicos.unifesp.br/index.php/alm

[10] As Myrup seems to argue: MYRUP, Erik Lars. *Power and Corruption in the Early Modern Portuguese World*. LSU Press, 2015.

[11] *I.e.*, until the reign of King José (1750-1777)

[12] HESPANHA, António M. *Como os juristas viam o mundo*. Direitos, estados, pessoas, coisas, ações e crimes. 1500-1750. 2015, p. 181 (e-book) p. 42.

**The qualities of men and their propensity for vice**

The high judge of *Relação do Porto*, Diogo Guerreiro Camacho de Aboim (1658–1709), when listing the desirable virtues for men in administrative service, in his work *Escola Moral, política, cristã e jurídica* (end of the 17th century), highlighted the importance of *resourcefulness*. This was described as "a more extended and expanded understanding in the knowledge of ordinary things: it is a stronger light that more accurately distinguishes the just from the unjust".[13] Resourceful ministers, according to Camacho de Aboim, resolved difficulties and found a solution for everything with no loss of consistency in their thinking and values: "Nothing requires more skill and experienced resourcefulness than matters of government; because mishaps can arise in a moment and require immediate remedy".[14] However, he continues, there is no "resourcefulness so bad that it cannot be subject to some reason; nor so good that it does not degenerate into vice, if it lacks the culture of virtue".[15] The range of contexts, the validity of a law with multiple sources and the relative autonomy granted to officials required them to act with constancy, prudence and discernment (resourcefulness), all qualities essential for a good governor.

The Crown had its own strategies for achieving this objective, some of which were deployed before an official's assessment was carried out, or which would take place after the period of their mandate. There was a system for the process of selecting and appointing royal representatives in which the monarch, or the authorities representing him, chose these according to broadly varying criteria and according to the nature of the position to be filled, but which were, in general, highly consistent.

To occupy certain positions, such as the judiciary, an academic background was necessary, while others required specific skills, such as literacy, or, as in the government of a captaincy, military capacity, experience, and quality of lineage. For this reason, given the diversity of criteria and institutional procedures, in this foray we will set aside the governors/captains-general of the captaincies, as well as the honourable local elected positions (council members, local judges, and attorney) and/or officers of the *ordenanças* (local militia reserves). We will thus turn our attention to salaried posts, those in justice and the treasury.

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13 ABOIM, Diogo Guerreiro Camacho de. *Escola Moral, politica, christã e jurídica* [The Moral, Political, Christian and Legal School]. 3rd edition, Coimbra: Oficina de Bernardo António de Oliveira, 1754 [1º edição 1747], p. 245.

14 Idem, p. 246.

15 Idem, p. 245.

However, most requirements were related to aspects that determined the ability to behave with virtue. In the then current view, of a society that was also hierarchized according to ethnic and religious parameters,[16] the screening of future officeholders should be able to pinpoint the existence of 'flaws' which could be considered an impediment to the exercise of power, excluding those who were considered 'poor' candidates for a job even when it was a lower position in the hierarchy of offices.

A pure lineage was a universal attribute that also indicated Old Christians as superior servants of the monarch, as they possessed intrinsic virtues.[17] Thus, in Lesson IV of the virtues which Diogo Guerreiro advised for the exercise of government, he refers to a pure lineage as the most valued characteristic because

> although there can be purity without honour, there can be no honour without purity. *Nobility* is a moral opinion which each one of us has, and there can be no good opinion when there are known flaws in one's bloodline.

Jews, New Christians and Moors, due to the "vice in their blood" or being of "flawed stock" were disqualified from service because, according to the author of the treatise, "a good building cannot be built from bad materials".[18] This derogatory assessment, which only slackened in the Pombaline period, theoretically excluded them from military posts, administrative positions and indeed any and all occupations, as these were services that had to be carried out by those who demonstrated that they could act based on loyalty and trust,[19] as well, it should be added, as many ecclesiastical benefits.[20]

In addition to the cleanliness or purity of lineage were other characteristics that attested to virtue, such as those that were derived not from their birth but from occupations or deeds throughout their life. The most common were associated with the nature of the activities they performed as well as by their ancestors up to the

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[16] The qualities to be screened were not limited to so-called flaws of lineage and profession ["*de sangue e de ofício*"], but also other impediments to service, such as being under 25 years of age or not being married (in some specific cases). Also, in the case of 'hereditary' properties' offices, being the presumptive heir, having the best service record (official certificates), or a royal document with a promise of appointment, etc.... They did not always carry the same weight. The 'rules of the game' dictated by the monarchy also varied according to royal intent.

[17] FIGUEIROA-RÊGO, João de; OLIVAL, Fernanda. Cor da pele, distinções e cargos: Portugal e espaços atlânticos portugueses (séculos XVI a XVIII). *Tempo*, Vol.XVI, nº 30, 2011, p. 115-145.

[18] ABOIM, Diogo Guerreiro Camacho de. Lição (IV) Sobre a limpeza de sangue. *Op. cit*, p. 211.

[19] Law of 25 May 1773 which abolished the distinction between New and Old Christians. Available at: O Marquês de Pombal e os Cristãos Novos (arlindo-correia.com)

[20] On the demand for the "purity of blood" and the appointment of Holy Office: cf. FERNANDES, Alécio Nunes. Corruption for whom?, p. 126, this volume.

fourth generation. The slightest hint of impurity in a trade, that is, in the performance of some manual work, was enough to disqualify any claim to gain temporary offices (*serventias*) or granted in property offices[21] (perpetual and transmissible offices with royal permission). Innumerable children and grandchildren of tailors, olive oil workers, bricklayers, or shoemakers, for example, or of mothers and grandmothers and those of 'secondary *status*'[22] were disqualified and passed over for positions, even if of lower rank. It is worth remembering that those who "lived from their income" ("*viviam de suas fazendas*") did not belong to this group, that is, those who worked for themselves "living off their own assets, without any manual endeavours".[23] Hence, such a stain was not attributed to all manual workers, but only to those who needed to work for others to earn their livelihood. Underlying this is the appreciation of those who had assets to support themselves and their families even if they did not belong to the nobility. Here it should be noted that, in addition to reinforcing the inferiority of those who, as they could not give orders, had to follow them, men who had little or no financial means to support themselves could not be trusted. Freedom, which "mechanical" officers lacked, was also a virtuous asset. Referencing a phrase by Horace, Villas Boas e Sampayo said, in his *Nobiliarchia portuguesa*, dated 1676: "He who has money will have what he wants".[24] Raphael Bluteau, around half a century later, in the entry "money" in his *Vocabulario portuguez e latino,* among the many Portuguese adages cited, took up this phrase, with a slight twist: "He who has money will do as much as he wants".[25]

**The virtues associated with money**

It must be said that being in possession of means, if not associated with another formally or tacitly valued social quality, was not sufficient in itself to guarantee an appointment to a position in the Portuguese administration.[26] However, wealth could tip the scale in the assessment of those who applied for a vacant position or who

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[21] They are offices given in perpetual ownership, which can be passed on hereditarily if there is royal consent.

[22] STUMPF, Roberta Giannubilo. *Os Cavaleiros do Ouro e outras trajetórias nobilitantes nas Minas Setecentistas*. Belo Horizonte: Editora Fino Traço, 2014.

[23] Ibidem, p. 306–308.

[24] SAMPAYO, Antonio de Villas Boas. *Nobiliarchia portugueza*. Tratado da nobreza hereditária, e política. 1ª edição. Lisboa: Oficina de Francisco Villela, 1679, p. 25.

[25] BLUTEAU, Raphael. 'Dinheiro'. In: *Vocabulario portuguez e latino*. Volume 3. Coimbra, 1712-1728, p. 2036.

[26] "With virtues, one can acquire riches, but with riches one cannot buy virtues; whereby he who is virtuous may well be rich, but it does not follow that he who is rich is virtuous." ABOIM, Diogo Camacho. *Op.cit.* p. 54.

required some Crown donation, including a "public" office, whether temporary or property.[27] Likewise, without presenting a petition, it could contribute to being chosen to serve by the monarch himself or some royal representative, or even to being elected by *homens-bons* (the main men of each municipality) to one of the council offices. In addition to innate qualities or those determined by lifestyle, there are common references to the view that men of means were less prone to bribery, a vice recurrently identified in the political culture of the Portuguese *Ancien Régime* as being the very essence of political corruption. In other words, men of possessions or money were held at that time to be more inclined to be "clean-handed" (*limpeza de mãos*), complete and impartial in their service than those who found themselves in financial and material difficulties, because they would quickly let themselves be bribed. However, the illegality of bribery was particularly exacerbated if judges or graduated in law were to indulge in it.[28] When this practice involved magistrates, they allowed not only themselves to be corrupted, but justice, which was their responsibility, ensuring that the social order was maintained. This is why, for Raphael Bluteau, having "clean-hands" was the main "virtue of a judge, who takes no bribes and will not allow himself to be corrupted by money".[29] The image of the "perfect judge" was upheld by impartiality and disinterest because (just as we metaphorically associate justice with a blindfolded woman), he would thus not allow himself to be influenced by something that diverted his eye from what was fair, right and true. According to António Manuel Hespanha,[30] "the free nature of justice prevented judges from receiving offers from parties, as their services were provided to the republic and not to others. If the parties paid, this would privatize the judicial function and the judge would sell his mission, taking for his own that which that belonged to everyone (*facere*

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[27] On the modes of provision in the Portuguese monarchy of the modern age, see: STUMPF, Roberta. Os provimentos de ofícios: a questão da propriedade no Antigo Regime português. *Topoi. Revista de História*. Volume 15, nº 29, Jul./Dec, 2014, 612–634. Available at: https://www.revistatopoi.org. Accessed: June 20, 2024.

[28] As you can see in legal treaties, in administrative documentation controlling the conduct of officials (including reports and complaints sent to the Overseas Council).

[29] BLUTEAU, Raphael. 'Limpeza de mãos'. In: *Vocabulario portuguez e latino*. Volume 5. Coimbra, 1712-1728, p. 3677.

[30] HESPANHA, António M. *Como os juristas viam o mundo*. Direitos, estados, pessoas, coisas, ações e crimes. 1500-1750. 2015, p. 181 (e-book). However, according to the author: "The principle of free provision of justice in relation to parties did not, however, exclude the possibility of receiving something directly from the hands of those parties, as long as there was neither a pact of favouritism nor a public scandal". About simony: cf. WEST, Charles. "Corruption in the Middle Ages and the problem of simony", this volume. Of particular interest to thinking the bribery, in the *Ancién Regime* is the author's observation about: "what matters is how simony is serving in this late antique or early medieval text as a platform for consideration of what office, entrusted power, actually is, and how it should properly be acquired". Idem, p. 86.

*litem suam*). This "sale" of public functions would be close to simony, or the sale of sacred duties."

Detachment, a paradigm of how a good magistrate should act, was reinforced in *residência* (which were obligatorily removed after the end of their term of office so that they could serve again). Checks were made on whether they had been impartial to parties and whether they had incurred favouritism. This is a recurring image in the *Ancien Régime*, and it was to be revived with great force in the political speeches of the liberal revolution in Portugal in 1820, but to discredit the previous regime. In these speeches, they denounced

> the grave accusations that include corruption of the old regime and of the enemies of the fatherland in general: 'there is no individual of any class whatsoever who is not convinced of the venality of the courts, the corruptibility of litigation and the suffering of the nation' (G.C., 49-27/XI/20).[31]

As in liberal discourse, but more than a century earlier, for Diogo Camacho Aboim, there were three types of gifts which "compromise the justice of the kingdom": "praise, favour and bestowals", the last being the worst for him "because riches and self-interest capture the heart and force the loss of loyalty".[32] Money was the origin of this addiction, as it bought illicit favours from those who acted out of self-interest or to benefit a third party. "Self-seeking" magistrates could distort "the sentiment of truth and justice with the passions of gratitude or greed".[33]

Eighteenth-century documentation is rich in examples that provide us with important items, as occurs whenever we turn to specific cases. The ombudsman of the *Comarca* of Rio de Janeiro, Fernando Leite Lobo, was appointed in the 1730s to "investigate the cases in which the ombudsman of Vila Rica, Sebastião de Sousa Machado, was accused", and to arrest him and seize his assets if it was found due to "extrajudicial information (…) that he had committed the said excesses". Yet little could be found other than that he received "excess salaries", of which other ombudsmen from Minas were no "less culpable".[34] However, this magistrate,

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[31] Jornal Gênio Constitucional *apud* VERDELHO, Telmo dos Santos. *As palavras e as ideias na Revolução Liberal de 1820*. Coimbra: Instituto Nacional de Investigação Científica, 1981, p. 322.

[32] ABOIM, Diogo Camanho. *Op.cit*, pp. 277, 275 and 274, respectively.

[33] HESPANHA, António M. *Como os juristas viam o mundo*. Op.cit. p. 671.

[34] The ombudsman was referring to the excess collection of fees (*emolumentos*), and not to the wages paid by the Royal Treasury, a recurring problem that the Crown sought to control. In 1721, the governor of Minas Gerais, Dom Lourenço de Almeida, tried to regulate the collection of fees charged to the population for certain services provided by ombudsmen and clerks, but without success.

appointed to replace Sebastião Machado in the ombudsman's office in Vila Rica, decided to take up his predecessor's *residência* in order to remove him from that land and investigate the suspicions against him (without his pernicious presence).[35] According to Fernando Leite Lobo, I immediately found from the first twenty-one witnesses [in the *residência* inquiries], that in addition to many things that he was accused of in the complaints presented to Your Majesty, the checked ombudsman had committed very serious crimes of barratry, in comparison with which the guilt of those excesses seemed little.

Bribery, when proven, was an unforgivable abuse. In the same letter written by Fernando Leite Lobo addressed to the monarch John V on September 12, 1734 via the Overseas Council,[36] we see that he ordered the arrest and sequester of the assets of his predecessor, who was sent from the capital of Minas to Limoeiro Prison, in Lisbon, where he died.[37]

The majority of *residências*, however, do not appear to have ended with 'corrupt' magistrates being punished. They were more commonly used for listing supposed virtues, sometimes in quite exalted language. In the *residência* to investigate the actions of Bachelor Manuel Joaquim Pedroso in May 1783, during the period in which he was ombudsman of this *Comarca* of Minas, the judge in charge (Francisco Gregório Pires Monteiro Bandeira, superintendent of the Vila Rica Foundry) was eloquent in his praise:

> And there being quite a hundred and twenty witnesses, I could not spare myself from taking much more, who voluntarily and uniformly came to swear that this checked ombudsman was an excellent official, wise, prudent, clean-handed, disinterested, affable towards parties, dealing equally the poor and the rich, very expeditious, and an active caretaker of the Royal Treasury, in which he notably distinguished himself and finally regulating his actions in

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[34] In 1754, a new regulation was created just for Minas to avoid similar abuse, with the amounts updated, although they were still higher than for other captaincies. Permit for the Regulation of Salaries and Emoluments of Ministers and Justice Officers of Minas, Brazil, October 10, 1754. Available at ICS (ul.pt). On the issue of salaries and corruption, see ROMEIRO, Adriana. *Ladrões da república:* corrupção, moral e cobiça no Brasil, séculos XVI a XVIII. Belo Horizonte: Fino Traço, 2023, p. 120-123.

[35] To begin the *residência* inquiries, the checked judge was suspended from his position and removed to a town, city, or place 'which will be at least six leagues from the location of the *residência*.' *Directório para os Sindicantes tirarem Residência* (August 29, 1722) In: Systema, ou Collecção dos Regimentos Reaes, t. 5: Lisbon: Officina Patriarcal Francisco Luiz Ameno, 1789, p. 509. Available at ICS (ul.pt) (O governo dos outros (The government of others).

[36] Vila Rica, 12 September 1734. Letter from Fernando Leite Lobo, ombudsman of Ouro Preto, relating the *residência* and inquiry that, by royal order, he made into his predecessor, Sebastião de Sousa Machado. AHU, Minas Gerais, Cx.27 Doc.20. Available at: http://resgate.bn.br/docreader/DocReader.aspx?bib=011_MG&pagfis=12549

[37] SÃO BENTO, Luís de; SOARES, António. *Memorial de ministros:* Catálogo alfabético dos ministros de Letras (Estudo e transcrição Nuno Camarinhas), Vol.2 J-Z, Lisbon: Biblioteca Nacional; São Paulo: Colégio Permanente de diretores de escolas estaduais de Magistratura, 2017, p. 1583.

such a way that they served as an example and an object of admiration for all.

The list of adjectives that describe the conduct of this former ombudsman from Minas Gerais perfectly summarizes the understanding of a "minister who does honour to His Majesty's services," focused on the idea of impartiality and "clean handedness", qualities constantly mentioned for avoiding bribery. In this case, whether the description of excellence is true,[38] it is these qualities which stand out to the point that we might start to suspect whether, ironically, the judge in charge himself had received a bribe to praise such checked ombudsman. These cases in which checked judges were unblemished were recurrent and may also indicate "solidarity" between the magistrates, whether reinforced by money or not. This might reduce the reliability of the *residências* as a source for studies of the behaviour of Portuguese officialdom in the kingdom or anywhere in the Empire, despite the Crown's attempts to combat corporatism.[39] In any case, the monarchy provided an opportunity to make complaints against bad officials by other means, an extraordinary resource which suffered less interference from the networks established by the magistrates, and was therefore more reliable for studying abuses of power by Portuguese officialdom.[40]

If bribery was considered especially serious among judges because it corrupted justice, it was a moral deviation that could affect all officials. The scope of royal officialdom was such that it could indulge in this vice that was determined in the Manueline Ordinances (Book V, titles LVI and LVII):

> All judges and high judges, and any other officials, whether of justice, or of our Treasury, or of Our House, and of whatever sort and quality they may be, as well as of the governance of cities, towns, places and others whatever they may be, shall not receive for themselves, nor for their children, nor for anyone under their power or governance, any donations or gifts from any person whatsoever, even though they do not bring with them any request for any order.[41]

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[38] Vila Rica, 17 May 1783. Letter from Francisco Gregório Pires Monteiro Bandeira, intendant of the Vila Rica Foundry, to D. Maria-I, recounting the *residência* of Manuel Joaquim Pedroso, who held the post of ombudsman of the *comarca* in that town. AHU, Minas Gerais, Cx.119 Doc. 33. Available at: http://resgate.bn.br/docreader/DocReader.aspx?bib=011_MG&pagfis=59401. Accessed: June 20, 2024.

[39] In the Charter (*Alvará*) of February 8, 1775, "Regulating the appointment of Ministers to carry out the *residências* and giving a new form to *residencia*", there are two pages on corporatism. Available at  ICS (ul.pt) O governo dos outros (The government of others).

[40] STUMPF, Roberta. 'Recorrer aos soberanos. Notas sobre as denúncias dos vassalos das capitanias auríferas'. *Almanack*. Revista eletrónica, 2023. FERNANDES, Renata. O Conselho Ultramarino e as queixas e agravos…*Op. cit*

[41] *Ordenações manuelinas* (Livro V). Lisbon: Fundação Calouste Gulbenkian, 1984, p.185-194.

With Treasury appointments, the care that was taken when appointing officeholders is indisputable, always recommending that they be wealthy. To deal with the money of the Royal Treasury, whether in collecting taxes, auctioning (*arrematação*) rights and contracts, smelting gold, paying wages, or even monitoring the money and assets of orphans, the deceased and absentees (*ausentes*), among the many duties they performed, it was essential to ensure that they were also 'clean handed' in their governance. To this end, it was recommended that those chosen be men of virtue, thus choosing reputable[42] and wealthy men because having means, as we have seen, helped them avoid malicious behaviour.

When the position of collector of royal taxes (*almoxarife*) at the Royal Treasury of Rio de Janeiro became vacant in 1712, the Overseas Council published a notice for one month for interested parties to send their current documents to the Council secretary. Three candidates applied, all experienced in financial services, in positions of greater or lesser importance. To choose the best candidate, a consultation with the Overseas Council was carried out, by which means it can be ascertained who the candidates were and how the councillors praised the services provided. The first, João da Costa de Matos, had served as clerk of the royal fifths and purchases of gold of the Mint in Rio de Janeiro "with great satisfaction, ability, zeal, and intelligence, in which he did excellent work." João Mendes Mexia, in turn, was a general accounting officer for the army and troops of Catalonia, for around eight years, "with good conduct," while António Rodrigues de Sá held the position of clerk in the warehouses (*almoxarifado*) of Sacavém, Portugal, "with good opinion". Called on to give his position, the Treasury attorney responded

> that in the jobs of collector of royal taxes warehouseman, not only should candidates have intelligence and truthfulness, but they must be possessed of goods (…) and the supplicants lack their intelligence, truth and zeal; however, none of the candidates declares what their abilities are and that they therefore lacked the security that was the most important and that is why they do not seem capable.

It should be noted that for the attorney, the fact that none of the candidates mentioned his economic status was extremely serious because for him, wealth was the

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[42] In the trials (*provanças*) of Brás Valentim de Oliveira, to qualify for the habit of knight of the Order of Christ, completed in 1770, one of the witnesses recalled that 'he was of such renown that he served in occupations in the collections of the Royal Treasury'. Very frequent association. ANTT, *Habilitação da Ordem de Cristo*, Letra B, Maço 08, nº 3.

most important criterion for service in this office. According to this important authority, "the person who enters it must give safe and well-paid bonds, so that His Majesty's Treasury will have something to pay with in the event of any deviation or poor collection." However, the prudence expressed by the attorney did not change the vote of the deputies of the Overseas Council who chose the first candidate, João da Costa de Matos, with no reason given. Perhaps, being the only one living in the city of Rio de Janeiro and thus being able to assume the position quickly was explanation enough. Although this tender had been ongoing for years, it was not advisable for the position to remain vacant or for it to be filled by an "interim" chosen by a local authority, in accordance with legal instructions.[43]

Around ten years later, in 1724, a new notice was issued for the position of collector of royal taxes at the Royal Treasury in Rio de Janeiro and this time, taking into account the status of the offices already occupied by the candidates, they cannot be said to have had a suitable profile for this service.[44] The Treasury attorney once again showed caution, asking the judge of *India e Mina* to examine "the capacity, capabilities and good conduct of the said candidates", in the certainty that men who did not have all these qualities should not be nominated for Treasury posts. However, of the four candidates, only two "gave witnesses as proof of the requirements presented": Luís Alves Ramos and Simão Vieira Brochado. The former, according to the summary of the witnesses, was born in Tarouca, Portugal, was married and resident in Colónia do Sacramento where he was a collector of royal taxes at the Royal Treasury. Furthermore, as the Treasury attorney seemed aware, he had very "good conduct."

As for his means, witnesses say that he had a farm in Colónia with many cattle, slaves and horses, and that in the mines of Rio de Janeiro he has some potteries with many slaves, and that in the town of Tarouca, where he is from, he also has some real estate that was left to him from his parents.

The judge asserted about the last candidate, Simão Vieira Brochado, that

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[43] The monarch agreed with the opinion of the Overseas Council and appointed João da Costa de Matos on February 16, 1714. Lisbon, February 14, 1714. Overseas Council to fill the office of collector of royal taxes (*almoxarife*) at the Royal Treasury in Rio de Janeiro. AHU, Rio de Janeiro – Eduardo de Costa Almeida, Cx. 16 Doc. 3340. Available at: http://resgate.bn.br/docreader/DocReader.aspx?bib=017-1_RJ&hf=resgate.bn.br&pagfis=8340. Accessed: June 20, 2024.

[44] Lisbon, March 30, 1724. Overseas Council to fill the office of collector of royal taxes (*almoxarife*) at the Royal Treasury in Rio de Janeiro. AHU, Rio de Janeiro- Eduardo de Costa Almeida, Cx. 20 Doc. 4435. Available at: http://resgate.bn.br/docreader/DocReader.aspx?bib=017-1_RJ&hf=resgate.bn.br&pagfis=10725. Accessed: June 20, 2024.

> he conducts himself well, and that he has good skills and was a clerk in a process that was carried out in Maranhão, by order of His Majesty, an occupation in which he gave good account (…) as for his means, the witness José Francisco Padrão says that the supplicant has few and he is certain that it is the truth.

The Crown attorney voted in favour of Luís Alves Ramos, whose background was more notable in relation to his opponent. The choice is not surprising given the frequent notion that to ensure that treasury positions were served with "clean hands" this was the most important criterion to consider. However, by royal resolution, the appointment fell to Simão Vieira Brochado, with the exception that this should only be the final decision if "the Council does not have another more suitable person." The counsellors reinforced their choice, arguing that

> Simões Vieira is said and believed to be a man of great novelty and good conscience, which are the essential qualities that must coincide in one who is to take charge of the role of collecting for the Royal Treasury.

This was not a game in which each of the decision-makers chose their criteria of trust and suitability. It seems indisputable that Vieira Brochado's lack of expertise, even though it did not prevent his appointment, interfered in his evaluation as no one was convinced that he was the right choice for such a position. As for Almeida Ramos, there is a lack information to explain why he was not considered for the nomination, despite his wealth. One hypothesis is that it seems that his wealth raised suspicions about his true interests, since it highlighted his important (and dangerous) local influence in two territories which were crucial to the monarchy (Rio de Janeiro and Colônia do Sacramento).[45] A year before the Council's decision, in July 1723, Almeida Ramos held the office of "attorney of Colónia and its inhabitants" and it was in this capacity that he presented two petitions to the monarch that displeased the governor of that town. The first request was for provision for the construction of "a hospital and a brotherhood" and the second to send "boats to combat the landing of ships from foreign nations." Two years later, still annoyed, the governor of Colônia do

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[45] There are many laws preventing the occupation of Royal Treasury posts by those who had social importance in the place where they would serve. An example is the royal order of April 13, 1745, which 'prohibited officers of the Chamber of Rio de Janeiro from appointing merchants who owned farm stores to the role of storehouse guardian at the Royal Treasury of that captaincy', 'whenever possible'. Rio de Janeiro, August 7, 1745. Letter from the governor of Rio de Janeiro [and Minas Gerais], Gomes Freire de Andrade, to the king [John V], reporting compliance with the royal order which prohibited officers of the Rio de Janeiro Council from appointing merchants who owned farm stores to the role of storehouse guardian at the Royal Treasury in that captaincy. AHU, Rio de Janeiro, Cx. 38, D. 3935. Available at: http://resgate.bn.br/docreader/DocReader.aspx?bib=017_RJ_AV&hf=resgate.bn.br&pagfis=26897. Accessed: June 20, 2024.

Sacramento explained to the Overseas Council that some of Ramos" requests were no longer necessary, as "Colônia is so different today from the time when the prosecutor, a robust man in perfect health, left it to a leper'.[46]

If the exigency for wealth was understood as a resource to avoid bribery, this was not the only diversion that Treasury officials could indulge in. In complaints against them, or in sources concerning the evaluation of their conduct, other offences were referred to, such as theft, smuggling, forgery, and diversion of funds, among others. Even though it is impossible to measure the amounts involved, it is certain that they caused great damage to the Royal Treasury.[47] Similar abuses could be committed due to officials' greed and/or because of some material need, which is why it was also believed that the wealth of means could help prevent deviations from the rules dictating good conduct. The requirement of a guarantor at the time of appointment, especially when it came to more important finance positions, was also a measure of security that mitigated the risks of embezzlement. However, the Crown had other strategies to avoid similar practices, including paying good salaries to officeholders. While a considerable portion of the men who entered financial administration were property owners, in order to serve the monarchy, they usually needed to move away from activities that provided them with good income, particularly if they were carried out on lands that were many leagues away from the location where they would perform their offices.

On October 21, 1700, the governor of Rio de Janeiro, Artur de Sá e Meneses, expressed his favour of this strategy in a letter to the king [Pedro II], that is, he argued for an increase in the wages of the ombudsman and other officials (treasurer, clerk and foundryman) of the workshops in the royal fifths of São Paulo, Taubaté and

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46 Nova Colónia do Sacramento, 11 May, 1725. Letter from the governor of Colonia do Sacramento, António Pedro de Vasconcelos, to the king [John V], on the provision requested by the attorney of Colônia, Luís de Almeida Ramos, for the construction of a hospital and a brotherhood in Colônia. AHU, Colônia de Sacramento, Cx. 2 Doc. 135. Available at: resgate.bn.br/docreader/DocReader.aspx?bib=012_CSRP&hf=resgate.bn.br&pagfis=1063, Nova Colónia do Sacramento, 12 May, 1725. Letter from the governor of Colonia do Sacramento, António Pedro de Vasconcelos, to the king [John V], on the provision requested by the attorney of Colônia, Luís de Almeida Ramos, requesting the dispatch of boats to repel landings by ships from foreign nations. AHU, Colônia de Sacramento, Cx. 2 Doc.136 (1). Available at: resgate.bn.br/docreader/DocReader.aspx?bib=012_CSRP&pagfis=3365. Accessed: June 20, 2024.

47 'Contrary to what the legal-political texts posited about the public dimension of the Royal Treasury, the complaints presented no abuses against these resources as an attack on the community of vassals, that is, on the republic, but only on the royal person.' The difference between public goods and assets of the Crown (or Royal Treasury), for the author, is decisive in the subjects' assessment of what was or was not an abuse of power. It is not possible to address this issue in this essay, but Romeiro, Adriana. *Ladrões da república. Op.cit,* p. 141 is recommended reading.

Rio de Janeiro. In his letter, he justified his proposal by recalling that the works in that context were much larger than in previous periods and that it was still 'convenient for the Royal Treasury to add them so as not to give them the opportunity to make mistakes'.[48] It could be said at the time that 'necessity makes the thief'.

Embezzlement was rarely mentioned as being a behaviour which derived from proximity to it. More often, moral deviation or lack of financial conditions were the reasons attributed for counterfeiting currency, evading tax, or many other misdemeanours that the Crown tried, not always successfully, to control.

## Social and political authority

Whenever possible, the aim was to sanction the idea that a man with some wealth were more likely to serve (within the established parameters of good government) and avoid misconduct that might compromise the common good. However, the profile of men who lived lives of distinction, whether from a moral or social point of view, was also valued because it was understood that the social importance, they held reinforced the political authority of the position to which they had been appointed.

With these formal requirements being considered in the context of appointments and provisions, as they were in many cases, future civil servants should have a way of proving that they belonged to the 'nobility of the land', identified above all by their lifestyle. Those who 'lived by the law of nobility,' as it were, could be recognized as being good, God-fearing subjects of the monarchy and morally virtuous. But not only this – according to the pages of testimonies in the trial (*provanças*) carried out to ascertain the attributes of those applicants for the habits of knighthood in the military orders or the position of family member of the Holy Office, for example, other criteria distinguished individuals of this status, within which their assets had a high profile.

The example of Francisco de Abreu Guimarães perfectly illustrates how men who held this local dignity were recognized. Born in the town of Guimarães in Portugal, he arrived in Minas Gerais at the age of twelve to learn the trade of merchant from his uncle. Years later, he requested the habit of the Order of Christ for having brought

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48 Rio de Janeiro, June 6, 1701. Letter from the governor and [captain-general] of Rio de Janeiro, Artur de Sá e Meneses, to the king [Pedro II], proposing increased salaries for the attorney and other officials of the workshop of the fifths of gold (*quintos*). AHU, Rio de Janeiro, Cx. 7 Doc. 743. Available at: http://resgate.bn.br/docreader/DocReader.aspx?bib=017_RJ_AV&hf=resgate.bn.br&pagfis=4998. Accessed: June 20, 2024.

more than nine *arrobas* of gold to the Sabará Foundry[49] between August 1767 and August 1768, after having obtained the title of family of the Holy Office. In his trials he was identified as a man who "lives a clean and ordered life from the profits from the administration he has in the diamond contract, and will have 12 thousand *cruzados*, he knows how to read and write, is single…".[50] In the inquiry carried out by the *Mesa da Consciência e Ordem* (Board of Conscience and Order) to assess whether he could become a knight of the Order of Christ, one of the witnesses recognized him as being 'of good repute among good men. (…) Bearing himself with distinction and gravity, having several mills and mines of his own, in which he has many slaves'.[51] As for his father and paternal grandparents, in the interview held in the Parish of São Vicente de Mascotelos, where they were all born, the witness Manoel de Abreu, a 72-year-old master weaver, added further information:

> …always treating themselves well, and the beasts on which they rode, because they were rich in real goods and money, they never committed a crime against the divine or human Majesty, nor were they known for it, as I knew from seeing this, and knowing them and being their neighbour…[52]

Being recognised as one of the main people in the town, Francisco de Abreu Guimarães was enabled to serve in local positions and eventually ascend to other higher positions in administration. All those who had the attributes that distinguished them as 'good men' and men of goods/possessions were identified with this primacy and were recognized as thus. The fame and honour achieved through the externalization of virtuous and expensive behaviours needed, however, to be preserved and perpetuated for their descendants, but this was only within the reach of those who could continue to bear the costs of an analogous way of life.

Money was ambiguous of character. It could pervert the authorities who gave in

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[49] 1 arroba of gold is equivalent to around 15 kilos of gold. AHU, Minas Gerais, Cx.96 Doc.31 f.3 (Anterior a 1769). No place, 28 November, before 1769.

49 Request from Francisco de Abreu Guimarães, resident in the village of Sabará, asking the king to reward him for the services provided at the Foundry in that village. Available at: http://resgate.bn.br/docreader/DocReader.aspx?bib=011_MG&pagfis=47821. Accessed: June 20, 2024.

[50] Process of habilitation for Francisco de Abreu Guimarães. ANTT, *Tribunal do Santo Oficio*, Francisco, mç.101, doc. 1629 f. 1. On the path de Francisco de Abreu Guimarães and his uncle, see: FRANCO, Renato. Fortuna e ressentimento: o incrível caso dos Abreu Guimarães (c.1740–1807), *Revista Portuguesa de História*. Volume 47, 2016. Available at: https://impactum-journals.uc.pt/rph/article/view/0870-4147_47_12. Accessed: June 20, 2024.

[51] The inquiry started in 1780. This statement was given by the first witness, Father Manuel Dias da Costa Lana(?), presbyter of the habit of Saint Peter, aged 32, born in Vila de Sabará. ANTT, *Habilitação da Ordem de Cristo*, Letra F Maço 24 n. 5

[52] ANTT, *Habilitação da Ordem de Cristo*. Letra F Maço 24 n. 5 f. 14.

to bribery, but it 'protected' from this vice those of means who would be less inclined to give in to it. To combat the greed and covetousness of Justice and Treasury officials, the monarchy sought to appoint virtuous men, with morally impeccable conduct and procedures, and preferably of some means, qualities common to most individuals who belonged to social groups of distinction, noble by royal favour or even more ennobled by divine election. But the government of the empire also had to make use of men with lower social status, because the most numerous positions of an intermediate level in the Portuguese administration were not filled by nobles. Even so, they were formally required to meet social requirements that proved them suitable, without which they would not be able to give credibility to their political authority or honour the trust that the monarch had placed in them.

## The virtues of wealth

This is not an attempt to deny that *Ancien Régime* society put honour before money,[53] but rather to emphasize the determining role that the Crown, its representatives and its subjects attributed to wealth in assessing individuals' social and political importance. In a society of orders, the monarch was primarily responsible for social order and must preserve acquired privileges and reward men who stood out for the common good even when their "actions in the Royal Service have been above their birth".[54] This recognition resulted in the granting of different types of favours, such as positions in the royal administration, titles and honours, many of which were ennobling in nature. In this process, as we have seen, the individual and family requirements of the subjects were assessed, as well as the services they had provided. In the first case, wealth was important because it conferred social dignity and allowed it to be externalized. In the second, the importance of having means in carrying out many actions of service, especially useful in contexts in which the Crown could not bear certain costs, should be highlighted. These pecuniary services, as we prefer to call them, were even more honoured because they were carried out on the person's own initiative; they supported requests for favours because the expenditure of money, or the "sacrifice of the treasury",

[53] LÓPEZ-SALAZAR, Ana Isabel; OLIVAL, Fernanda Olival; FIGUERÔA-REGO, João (coord). *Honra e sociedade no mundo ibérico ultramarino:* Inquisição e ordens militares - séculos XVI-XIX. Lisboa: Caleidoscópio, 2013.

[54] ANTT, *Habilitação da Ordem de Cristo*. Letra F Maço 3 n.6 f.6 *apud* STUMPF, Roberta. *Cavaleiros do ouro*. *Op.cit*, p. 266.

deserved to be seen meritoriously as it brought losses to the family of the supplicant and his future descendants.

These demonstrations of loyalty, in which money played a prime role, constituted the antithesis of what was said to be the best example of corruption, in that private interests were overlooked in favour of a greater good.[55] The "sacrifice", in this sense, expressed the difficulty of those who, even without greater resources, desire to be virtuous subjects. This convenient, accepted rhetoric was used by many men who were, for this reason, in an opportune position to petition. Sometimes it was the Crown itself that legislated to attract vassals to contribute services of a pecuniary nature in exchange for favours. In the difficult context of the beginning of the 19th century, João Egídio de Siqueira benefited from the decree of August 31, 1809, which promised a captain's post (of an ennobling nature) to anyone who organized military companies.[56] João Egídio, having raised a cavalry company at his own expense for the Royal Police Guard Corps, obtained the rank of captain and the right to appoint lieutenants and ensigns.[57] Fortunate were monarchs that could count on brave, courageous and relatively wealthy men like these. Rewarding them was doing justice to them and to society because their actions were beneficial for all.

From 1750 onwards, with the law establishing foundries, mentioned earlier in the case of Francisco de Abreu Guimarães, the Portuguese monarchy made it possible for loyalty, expressed in *arrobas* of gold, to earn subjects residing in Minas Gerais a habit of military orders, which was no small feat in a region where blood nobility and lineage were rare. In the regulations, it was not stated that the royal favour they could request was the title of knight (of the Order of Christ), but this was the award that most supplicants chose. This once again demonstrates the existing possibilities to elevate oneself socially by means of economic goods (although here it was still necessary to go through trials to evaluate their individual and family qualities).[58] Of

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[55] "The influence of religious teachings, which stressed the abnegation of the self, and classical influences, which stressed ideals of putting the public good above all other considerations, shaped a mentality that was distrustful of self-interest." KNIGHTS, Mark. *Trust and distrust*. *Op. cit,* p. 11

[56] MACEDO, Roberto. *Brasil sede da monarquia. Brasil Reino* (1st part). Coleção História Administrativa, Brasília: Editora da UnB, 1983, p. 168.

[57] Coleção Leis do Império do Brasil (1813), p. 34. *COLEÇÃO Leis do Império do Brasil*. Portal da Câmara dos Deputados. Available at: http://www2.camara.leg.br/atividade-legislativa/legislacao/publicacoes/doimpep. Accessed: June 20, 2024.

[58] *Regimento para a nova forma de cobrança do direito senhorial dos quintos dos moradores das Minas Gerais, abolida a da Capitação que antes se praticava*. *Apud*. SOUSA, José Roberto Monteiro de Campos Coelho de. Systema ou Collecção dos Regimentos Reais. Lisbon: Oficina Francisco Borges de Sousa, 1783. p. 322. Available at:  ICS (ul.pt)

the 89 individuals who tried to benefit from this regulation, 42 were included, although some also had to pay the royal dispensation for their "flaws" (notably "impureza de ofício", for having been or being traders).[59] A considerable number were merchants, a group that, in the Americas, sought to transform their wealth into social capital. They were more successful in the process of obtaining a title of family member of the Holy Office, for which "pureza de ofício" was not required, and benefited from the opening given in the provision of financial offices for which, as stated, the future incumbent's means were evaluated.

The monarchy also legislated to promote access to paid and non-elective administrative offices for those who made the largest donation, as the monetary contribution was called, in auctions held for this purpose (initially in Lisbon and later in the American captaincies). Sales were established through the promulgation of the law of February 18, 1741, which granted intermediate appointments to be served in Portuguese America, for a period of three years. The content of the regulation required that before being provided, it was necessary to ascertain the buyer's abilities, but there was no evidence that this occurred. Likewise, all those who had been favoured by proposing a higher donation than the other competitors were authorized to appoint someone (*serventuário*) they were unable to serve. This means that the Crown itself encouraged the purchase of office appointments by those who were very probably not even interested in serving and could pass them on to third parties (through resale) who would not be evaluated by any monarchical institution.

There are many reasons for this openness, but economic necessity was certainly important, and there was a legal basis for legitimizing this procedure as the Crown could sell offices when it found itself in financial difficulties.[60] This transpired several times, particularly when the treasury was in difficulty in the American captaincies.[61] Therefore, bids made in the auctions were called 'donations' because they were a

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[59] To gain this royal favour, ideally prohibited to those who were not of pure blood and/or have "*pureza de ofício*," it was common to request a royal dispensation if the flaws were not especially serious. Such a 'favour' was legally accepted as it was not a pardon, as the 'flaws' could never be erased. It was even public knowledge that the noble favour had been acquired through a monetary contribution. STUMPF, Roberta Giannubilo. *Os Cavaleiros do Ouro*. *Op. cit*.

[60] Lisbon, December 14, 1675. Consultation by the Overseas Council with Prince Regent Pedro regarding the sale of the position of *provedor* of the Royal Treasury in the captaincy of Pernambuco to raise funds to be used to aid the Kingdom of Angola AHU, Pernambuco, Cx. 11 Doc.1023. Available at: http://resgate.bn.br/docreader/ DocReader.aspx?bib=015_PE&pagfis=7184. OLIVAL, Fernanda. Mercado de hábitos e serviços em Portugal (séculos XVII–XVIII). *Análise Social* 38, n. 168, 2003, p. 743-769. Accessed: June 20, 2024.

[61] Many appointments in the Holy Office were sold for "relief" of India. Cf. FERNANDES, Alécio Nunes. *Corruption for whom?*, p. 133-134, this volume.

pecuniary service (a type of donation) offered by a subject who spent a sum for the service of a position and was thus contributing to the common good. Distributive justice was thus preserved. Virtuous subjects who performed useful services for the monarchy were paid. Royal favours were not sold; they were granted as a right. In the documentation, expressions that refer to this provision process as if it were a trade are rarely seen, except, of course, when its critics spoke out.

In any event, even before 1741, the Portuguese Crown took sporadic recourse to this strategy, with no need (or will) to legislate on the matter. The few positions involved in these transactions were mostly granted in property (for life and/or with semi-automatic heredity) and were located at a higher level in the hierarchy of the administration of the Portuguese Americas (mostly the Treasury) than those sold from 1741 on, and, therefore, were granted in exchange for much higher values.

## Conclusion

It certainly seems contradictory that the same monarchy that demonstrated such prudence in the appointment of its officials – with attention paid to the quality of their lineage and religious reliability, or requirements concerning the activities carried out by the candidates – also granted offices for money, with no apparent concern over assessing whether future incumbents were capable of occupying those positions. The evidence that there is some paradox in the monarchy's stance is in the words of those who, in the 18th century, pointed out the problems of carrying out similar 'exchanges' of offices for donations.

Soon after sales started for intermediate positions of service in Portuguese America, on January 18, 1743, the *provedor* of the Royal Treasury of Rio de Janeiro, Francisco Cordovil Siqueira e Melo, informed the monarch via the Overseas Council that the recently created the post of bookkeeper at Casa da Vedoria, as he had no other income other than his salary of ten thousand reis per month,

> was opened for tenders to pay a donation, there was one ignorant person who offered thirty thousand reis per year as a donation, and provision was given to him without prior information nor any examination, which seems to have been since he is an official who serves the *provedor* before him

The position of the Overseas Council in response to the *provedor* was peremptory. They made it understood that Cordovil Siqueira should suspend agents who were not

'fit to carry out their duties' and added that

> it is the [Council's] obligation to represent to Your Majesty the great loss that Your Royal Treasury will fill by donating the officials of the Mint and others from your Royal Treasury, because in this there will be great embezzlements from which could take the amounts they have given for the offices.

Indeed, as stated earlier, temporary offices were granted with no inquiry about the buyers, who could then appoint *serventuários* to occupy positions that they themselves would not serve, and these gave

> for the temporary offices more than they have in income, which is the custom of men of no wealth, taking money on credit (*tomando dinheiro à risco*) for donations, for rights, and for their transport. They are certain that everything will come out of the services of the offices with which they are endowed, which they cannot have without concealing major embezzlement, so that they can receive bribes from the contrabandists (*descaminhadores*)

In this essay, the topic of corruption, public offices and money was revisited in a specific context, that of the Portuguese monarchy, both like and different from its closest, neighbouring contexts. Some public offices were always sold (even after the Pombaline legislation[62]), but always in smaller quantities and to a much lesser degree than in the Spanish and French monarchies. At the same time, officials and others have always been exposed as deviating from the straight and narrow and allowing themselves to be bribed and accepting monies. At the same time, as later in liberalism, wealth could be a criterion and a guarantee for the choice of officials, and it was never clear what could or could not be done and accepted when carrying out public duties. The discourse against corruption (designated thus or otherwise) was a recurring topic of vassals' complaints or disputes between them in the *Ancien Régime*. Here is not the right place to discuss how things changed with its successors.

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[62] AHU, *Registo de Consulta das Partes*, Códice 59, f.286.

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