Corruption in pre-modern societies

CHALLENGES FOR HISTORICAL INTERPRETATIONS

Edited by
MARIA FILOMENA COELHO
LEANDRO DUARTE RUST

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Contents

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

[2] WEST, Charles. The Simony Crisis of the Eleventh Century and the 'Letter of Guido'. *Journal of Ecclesiastical History* 73 (2022), 229–253. For a different view, see HENRIET, Patrick; ROSÉ, Isabelle. L'epistola Widonis. Traité anti-simoniaque restitué à Gui d'Arezzo. *Revue Mabillon* 33 (2022), 55–71.

[3] ROSÉ, Isabelle. Simon le Magicien hérésiarque? L'invention de la simoniaca heresis par Grégoire le Grand. In: MERCIER, Franck; ROSÉ, Isabelle (eds.). *Aux marges de l'hérésie. Inventions, formes et usages.*Rennes: PU Rennes, 2018, p. 201– 238.

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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