

# Towards the Medieval Conscience

## The Activities of the Papal Penitentiary

*Ludwig Schmugge*

### Introduction

How can the medieval historian, to whom, as in general, scarcity of sources is quite familiar and in most cases one of the major obstacles for his work, how can he dare to tackle such a delicate question as the human conscience? Not by chance scholars have expressed serious doubts about the ways and methods historians in recent years have tried to reconstruct the mind of medieval men and women. If such critics have brought up, if not devastating then at least some very serious objections against the hypertrophous euphoria of the 'histoire de la mentalité' – and if then we are far from describing, convincingly, what might have been the mind of a bishop or monk, king or knight, craftsman or merchant and peasant or servant, even in the later Middle Ages, when sources tend to become rather abundant, how then could a medieval historian dare to penetrate the most personal part of a human mind: his conscience?

As Adriano Prospero has recently pointed out: the importance of a history of conscience can scarcely be overestimated,<sup>1</sup> and therefore research into the realm of the medieval conscience has been quite intense in recent years.<sup>2</sup> Modern scholarly efforts are departing from the obviously generally accepted theory (summarized by Delumeau<sup>3</sup>) that the majority of European Christians at the beginning of the sixteenth century were only very superficially 'Christianised' and still had a solid base of magic. The same Delumeau

---

1. Prospero 1995, p. 213.

2. See for example Kittsteiner 1995, and the bibliography given there. Störmer-Caysa 1998, traces the notion of conscience within the scholastic literature of the thirteenth and fourteenth centuries.

3. Delumeau 1981.

has created the picture of a society, which from the thirteenth to the eighteenth centuries became something like a guilt-ridden Christianity.

On the other hand it is widely accepted that the genealogy of the modern world is rooted in the principle of freedom of conscience, which was condemned by the Roman Church at the Council of Trent and declared to be one of the most dangerous heresies.<sup>4</sup> The implementation of what is called an 'autonomous conscience' is considered to be an invention of the time of the Enlightenment or to have taken place somewhere between Martin Luther and Immanuel Kant.<sup>5</sup> The 'Gewissensdiskurs', as the most trendy expression in the German scholarly discussion goes, for many historians is positioned within the broader process of 'Sozialdisziplinierung' (the word has been coined by Gerhard Oestreich) of the early modern period.<sup>6</sup> Special emphasis in recent research has been put upon the relationship between conscience and confession. Very few scholars are still defending the assertion that a 'terrorized conscience' was the general habitus of late medieval Christians.<sup>7</sup>

### **The supplications to the Penitentiary as a source for the history of the conscience**

Among the main offices of the Papal curia, Chancery, Chamber, Sacra Rota and Penitentiary, the latter has since the thirteenth century been almost exclusively concerned with matters of dispensation, absolution and licence. The early history of this office remains in the dark,<sup>8</sup> and it is only since the middle of the fifteenth century that registers of incoming petitions, called supplications, have been preserved. These registers, now deposited in the Archivio Segreto Vaticano in Rome and accessible to research, contain tens of thousands of individual petitions from all over Christ-

4. Prosperi 1995, p. 213.

5. 'Die Geschichte einer Kultivierung des Gewissens steht in der Spannung zwischen einem "Gewissen der Folgsamkeit" und den an bestimmten Punkten der historischen Entwicklung immer wieder durchbrechenden Autonomiepositionen', Kittsteiner 1995, p. 22.

6. Kittsteiner 1995, pp. 17 and 292. See Schulze 1987.

7. Tentler 1977. See for example Myers 1996 and 1998.

8. Göller 1907-11. For the rediscovery of the archives, see Göller 1913.

ian Europe. Men and women, laymen and clerics alike, submitted their supplications to the Pope, because they had committed certain transgressions that brought them into conflict with canon law regulations and from which they could only be absolved or dispensed from, that is reintegrated into the Christian community, by the Pope. The proper latin expression is *casus reservati*. As the Pontifex Maximus could not handle the increasing number of petitions personally, he had entrusted the administration and decision to the *Maior Penitentiarius* and his office according to certain rules, called the *facultates*, which were set up and granted to the Maior Penitentiarius, who always held the office of cardinal, at the beginning of each pontificate.

The *materia supplicationum* will be the subject of my paper and I shall try to scrutinise the texts with regard to how much they can tell us something about the conscience of men and women of the fifteenth century. The topics of the petitions range from matrimonial dispensation for too close kinship, absolution for murder or injury of a cleric, dispensation from illegitimate birth or license to eat dairy-products during Lent, to permission for a pilgrimage to Jerusalem or readmission to a monastery or religious order for runaway monks and nuns. In many of the texts the petitioner explains at length the circumstances of his breaking the rules and refers to the reasons, why he or she asked the Pope for dispensation or absolution. In short, as Pope Leo X made it right to the point: In the later Middle Ages the Penitentiary was the place 'in which the correction of behaviour and the salvation of souls were daily business' (*ubi morum censura et animarum precipue salus vertitur*).<sup>9</sup> Must not this then also be the place, from where historians could try to get some information about the conscience of men and women, who frequented this institution, which in 1473 has rightly been called by the Englishman John Paston 'the well of grace'?

---

9. In the bull *Pastoralis cura* (1513), Archivio Segreto Vaticano, Reg. Vat. 1200, fol. 428r.

## Statistics

How many people drew the water of grace from this Roman fountain? A first glance at the statistics of supplications registered during the pontificates of Calixtus III, Pius II, and Paul II (8th April 1455 to 26th July 1471) gives us the numbers (see Table 1).<sup>10</sup>

During the 16 years from 1455 to 1471 some 48,956 petitions have found their way into the registers of the *Penitentia Apostolica*, roughly speaking, on a statistical average, about 3,050 every year. However, it must first be noted, that there was no Holy or Jubilee Year within this period of time, when petitions (for example in 1450) amounted to the double or triple of an ordinary year.<sup>11</sup> Second, that many of the cases decided directly by the minor penitentiaries in Rome (the so called *litterae ecclesiae*) have never been registered, and that they are lost. Indeed, the total number of absolutions, dispensations, indulgences and licenses granted by the Penitentiary must have been considerably higher than the registered ones.

Statistics (and I hope ours are reliable!) cannot replace historical analysis, but it would require another paper to go into the details of the numbers presented here for the first time. The chronological and systematic distribution of the figures in time and space still contain many enigmatic circumstances and raise many more questions than I am able to answer today. For example, why do the French show such a keen interest in licenses for a personal confessor? Under Calixtus III the French petitions cover 39 per cent, under Pius II 62 per cent, and under Paul II 60 per cent of all dispensations *de confessionalibus perpetuis* registered. Why are matrimonial dispenses so frequently requested in Italy? The Italian share of the *materia de matrimonialibus* amounts to 38 per cent, 37 per cent, and 44 per cent respectively. This is even more true for the dispensations *de promotis et promovendis*, where the Italian numbers are 54 per cent, 44 per cent and 42 per cent within the three pontificates mentioned. And finally, why do German, Spanish and

---

10. It has been possible for me to provide the statistics thanks to the diligence of my young Roman collaborators, whom I would like to thank at this occasion, especially Kirsi Salonen and Peter Clarke. Kirsi Salonen has written a number of studies on the material from the Penitentiary, of which the most important is her excellent book on the Swedish and Finnish cases: Salonen 2001.

11. Schmutge 2001.

*Table 1. Registered supplications at the Papal Penitentiary for the pontificates of Calixtus III, Pius II, and Paul II (1455-1471)*

Territory	Calixtus III	Pius II	Paul II	Total
German Empire	2,252	3,369	5,070	10,691
Italy	2,367	3,445	7,193	13,005
France	1,609	4,484	6,053	12,146
Iberian Peninsula	1,626	2,158	3,215	6,999
British Isles	558	1,176	2,221	3,955
Scandinavia	67	87	148	302
Eastern Europe	342	465	831	1,638
?	(67)	(159)		
Total	8,882	15,343	24,731	48,956

Source: *Repertorium Poenitentiariae Germanicum*, vol. III, IV and V. Data provided by Ludwig Schmugge, Peter Clarke and Kirsi Salonen 1999.

Irish petitioners ask in such significant and disproportionate numbers for dispensations *de defectu natalium*:<sup>12</sup>

A last general remark: Petitioners got in contact with the Roman 'well of grace' on their own initiative, not called by the Pope or another ecclesiastical institution, but driven by their conscience and the social circumstances and restraints caused within the Church and the secular world by the rules and regulations of canon law. To some extent the supplications represent the level of 'internalisation' of that knowledge in the hearts and minds of the faithful in the later Middle Ages.

### **The conscience in the supplications: General cases**

Let us now switch from statistics and general considerations to the analysis of texts. I have chosen a few typical examples more or less at random from the period of time between about 1440 and 1480. They are registered in the volumes of the *Repertorium Poeni-*

12. Cf. Schmugge 1995; Haren 1994 and Aznar Gil 1994.

*tentiariae Germanicum*, of which five volumes have been published to date.<sup>13</sup>

Each *supplicatio* consists first of a *narratio*, in which each petitioner gives his name, social status and home diocese and explains his case to the Pope (because every supplication is formally submitted to him). Then follows the *petitio*, where the kind of grace requested is nominated. Fortunately the person, who submits his or her request (normally through a *procurator*) often gives us (in the *narratio*) very ample explanations of the circumstances of their conflict with the canon law, mentioning rather often that they have been driven to approach the Pope by a bad or uncertain conscience. At the same time the officers of the Penitentiary in deciding the case submitted to them, in many instances appeal to the conscience of their clients. Let me give you some general examples before entering upon a more systematic analysis of the texts registered in the Vatican Archives.

John Calis of Plauen, a priest from the diocese of Naumburg, tells the Pope, that he as a clerk in Taufers (diocese of Brixen) in the service of a *castellanus*, has been involved in some death penalties. He now, after years, feels guilty and driven by his bad conscience is asking for a *littera declaratoria* of his innocence, *ad ipsius exponentis conscientie scrupulum relevandum*.<sup>14</sup>

John de Gissin, a Premonstratensian canon, had left his monastery to become a monk of the Ordo Sancti Spiritus without proper dispensation (*dictum ordinem minus legitime intravit*). That's why he declares *conscientiam suam gravatam*, asking for absolution and permission to reenter another Premonstratensian monastery.<sup>15</sup>

Sometimes many years may have passed by, before the petitioner feels the prod of conscience: John Hollerbach has gotten *simoniace* a benefice in the diocese of Mainz, which he held for twelve years, until he felt *de predictis remorsum et scrupulum sue conscientie*, asking now for absolution from *simonie labe*. In 1449 he gets his absolu-

---

13. *Repertorium Poenitentiariae Germanicum* (henceforth cited as RPG), vol. I: Eugen IV (1431-47) (1998); vol. II: Nikolaus V (1447-55) (1999); vol. III: Calixt III (1455-58) (2001); vol. IV: Pius II (1458-64) (1996); vol. V: Paul II (1464-71) (2002). Vol. VI: Sixtus IV (1471-84) is in preparation; the texts cited from this volume are indicated with the respective archival signature, PA meaning Penitentiaria Apostolica.

14. RPG I, 732 (26.7. 1442).

15. RPG II, 45 (27.6. 1449).

tion, at this time still unconditional and without further obligation. Later in the fifteenth century, from the pontificate of Calixtus III (1455-1458) onwards he would have paid a hefty fine to the Pope (called *compositio*) for the income and revenues he had illegally taken from his benefice for twelve years.<sup>16</sup>

In another case Nicolaus Torbeke, a clerk from the diocese of Brandenburg, tells us a rather touching story: Once being a scribe of the civic administration of Jüterbog, a small hanseatic town in northern Germany, he had to report the theft of a horse by a man from the neighbouring town of Luckau. When he asked the *consules* of Luckau to put the thief in jail, the officers caught the man and finding him guilty they immediately hung him. Nicolaus feels responsible for his death and therefore asks Pope Nicolas V for dispensation *ad cautelam ad servandum suam conscientiam*.<sup>17</sup>

Some petitioners like Henry Fabri, a priest from Riga on the Baltic Sea, came in person to the Roman curia for their absolution *ad suam purgandam conscientiam*.<sup>18</sup> During a conflict in Riga between the bishop and some citizens he did not obey the interdict placed upon the town by the *ordinarius*, saying mass in the presence of excommunicated people. In order to avoid being put in jail (like other priests in town) Henry entered the Franciscan convent in Riga taking the habit of the order, staying there for about a month. The guardian, who claimed to have the appropriate power, absolved Henry from excommunication. Nevertheless, driven by his conscience, as we have seen, he went to Rome for papal absolution, and he got it.

In this context a phrase from Gratian's *Decretum* is very often quoted: *Bonarum mentium est dubitare culpam ubi culpa minime est*.<sup>19</sup> John Monk, a priest from Meissen, whose horse had suddenly panicked and mortally hurt a member of his family, cites Gratian's words in his supplication (probably through the pen of his proctor in a slightly different form, as *bonarum mentium est, ibi culpam timere ubi non est*). Then, *ad serenandam suam conscientiam*, he asks for absolution and dispensation from any *irregularitas* he might have contracted on this occasion.<sup>20</sup>

16. RPG II, 59 (7.5. 1449).

17. RPG II, 61 (3.5. 1449).

18. RPG II, 72 (5.2. 1452).

19. *Decretum Gratiani* D. 5 c. 4; Friedberg, ed. 1879-81, I, col. 9.

20. RPG II, 825 (4.6. 1450). Other texts: RPG I, 526 (14.3. 1440), a case of forgery of charters.

Not only the petitioners refer to their conscience, the Penitentiary, too, in deciding the supplications, in some cases explicitly calls upon the conscience of the petitioners or other persons involved, for example a bishop, to whom a *littera* is commissioned for execution. In 1451 the Patriarch of Aquileia was addressed by Domenico Capranica, Maior Penitentiary from 1449 to 1458, in the case of a certain Wolfgang Memhart, who has served as a secretary to some *dominus temporalis*.<sup>21</sup> Wolfgang had written several letters *pro iustitia administranda*, which in some cases led to the death penalty for the evildoer. He therefore feared that (because of his involvement in a death penalty as an *impedimentum* to be ordained) he could not become a priest. The Patriarch by the *littera* is informed and asked (after a thorough investigation) to decide the case and to dispense Wolfgang: *nos* [the Penitentiary] *igitur circumspeditioni vestre* [the Patriarch] *committimus, quatenus si prenominata inquisitione vera fore inveneritis, super quibus vestram conscientiam oneramus, declaretis ipsum* [Wolfgang] *promoveri posse*.<sup>22</sup>

### Runaway monks and nuns

Let us now examine some specific supplications, first the case of runaway monks and nuns. The basic canonistic presuppositions for changing the order (*transitus ad aliam religionem*) have been defined in the constitution *Licet* of Innocent III.<sup>23</sup> Pope Boniface VIII a century later declared that leaving a monastery (*apostasia a religione*) resulted in an automatic excommunication (*excommunicatio ipso facto*) of the religious person.<sup>24</sup> And Pope Martin V did not allow mendicants to change their order without papal approval.<sup>25</sup> Thus a religious willing to leave his *ovile*, as the terminology of the formularies goes, must prior to the act in any event ask for papal permission, otherwise he will be automatically excommunicated.

During the fifteenth century ‘Klosterreform’ was one of the major tasks in the late medieval church, promoted by the secular

21. RPG II, 862 (8.6. 1451).

22. A similar case in RPG III, 45, 110; RPG IV, 1479 (to the Bishop of Naumburg, 1462).

23. X 3.31.18; Friedberg, ed. 1879-81, II, col. 575sq.

24. VI 4.24.2; Friedberg, ed. 1879-81, II, col. 1065sq.

25. Extravagantes comm. 3.8.1; Friedberg, ed. 1879-81, II, col. 1277sq.

power as well as by ecclesiastical institutions. Reforming a convent or monastery could create major problems for the members living there. It seems that numerous monks and nuns, on this occasion, did leave their convents, especially in England, for different reasons, which are though seldom explained to us explicitly.<sup>26</sup> However, under the rubric *De diversis formis* in the registers of the Penitentiary many supplications are to be found where monks or nuns speak about problems within their order and why they left their monasteries. In some of the *narrationes* the petitioner explains the reasons for running away and why it was impossible to remain in the monastic community *sana conscientia*. Obviously, this was recognised as a *causa sufficiens* for an absolution on behalf of the papal dispensatory office.

How violent a conflict within a convent, that was about to be reformed, could become is vividly expressed in the complaints which a Roman procurator dramatically condenses for his client, the 56 years old Cistercian nun Mechtild de Mülhofen from the abbey *Pons Salutis* near Edenkoben in the diocese of Speier.<sup>27</sup> For more than 40 years she had served God in her monastery; then some nuns *de observantia* entered the community to begin the reform. Many of her fellow-sisters left, not so Mechtild, who according to her own words for more than twelve months tried very hard to live there *strictum huiusmodi observantie ordinem*. As she finally learned that she could not endure the new severe community rules, she asked her abbess for permission to leave. As this was denied to her, she left the abbey without permission to stay with her relatives. Her family, after six weeks, convinced Mechtild to give it another try (*monasterium causa se melius probandi reintravit*). But when she came back, she not only had to suffer *castigationes*: the abbess herself tore her veil down from her head and treated her *ignobili castigatione*. Mechtild, not willing to endure this treatment, left the monastery again without the consent of the abbess, but always retaining her monastic garb. The Regens of the Penitentiary absolved her from the excommunication she had contracted automatically, and allowed her with the explicit consent of Pope Sixtus IV (*de speciali et expresso*) to transfer to another order, even to a Benedictine house.

---

26. Cf. Logan 1996. For the canonistic aspect Condorelli 1995.

27. RPG VI, PA 22 fol. 136rs (1473).

Not all registered supplications are of the same dramatic style, and sometimes the arguments do not seem to be quite convincing. Elizabeth de Blonden, a noble nun of the female branch of the Franciscans, from Olmütz diocese, who by the order of her abbess and the duke of Oppau had been transferred to another house of the Clarisse against her own intention and will (*preter et contra eius voluntatem*), pretends because of the bad air to be unable to remain in the new convent (*ipsa exponens cum sui animi quiete et sana conscientia et ob aeris intemperiem in dicto monasterio remanere non potuit*). She therefore left without permission of her superior to live in the house of her parents and asks for permission to reenter the convent where she had been professed.<sup>28</sup> As the signatura of the Grand Penitentiary, Niccolò Albergati, tells us, the papal office was not quite convinced by her reasoning. The approval *ut in forma* would have meant that she had to seek the superior's consent before doing as requested.<sup>29</sup> Bad air does not seem to have been considered by the Penitentiary as a serious matter of conscience.

In other cases, of course, the *sana conscientia* argument has been fully respected and the transfer granted. Thus the office allowed a German Benedictine monk (living in Verona) to turn to another monastery, although we do not learn what the reasons given have been.<sup>30</sup> Even where the petitioner tells us much about his arguments, one would often like to ask him for a more detailed report: When the Augustinian canon Andreas Sterlich asked the Pope to transfer himself to a Benedictine monastery, he must have explained his situation to the Penitentiary in much more detail: *sui animi quiete et sana conscientia ac propter certas legitimas causas, quas causa honestatis allegare per amplius non possit, in dicto ordine remanere non potest*. He certainly convinced the office through his oral report, as he got the signature: *Fiat de speciali et expresso*.<sup>31</sup> Similarly a member of the Teutonic order, Michael Planck, claimed to have been

28. RPG I, 388 (26.3. 1442).

29. The signature *Fiat ut in forma* normally includes the rejection of any petition beyond the formulary. And in those cases the petition was implicitly turned down. This happened with Nicolaus Zongler, a Benedictine monk from the diocese of Merseburg (RPG II, 110, 2.1. 1450) and a noble Dominican nun from Engeltal in the Regensburg diocese, who asked for dispensation to become a Benedictine nun (RPG II, 447, 22.10. 1450).

30. RPG I, 499 (23.3. 1440), signature: *Fiat de speciali*.

31. RPG II, 903 (24.1. 1452).

treated so badly by his superiors, even put in jail three times, that he could not remain there in *sana conscientia* and left the order.<sup>32</sup> Michael Pictor from Glatz in the diocese of Breslau, an Augustinian canon, went three times in person to Rome, as he tells us in his last supplication in 1452, driven by his bad conscience (*conscientie sue habens remorsum*). He got the personal signature from Pope Nicolas V himself to transfer to another order, but we do not learn anything about his arguments. So we must be content that Henricus Hase, who has left the Cistercian abbey of Herbacht, tells us why: because his superior and his brethren gave him a hard time there (*propter molestias et persecutiones, que sibi per superiores et confratres suos iniuste inferuntur*).<sup>33</sup> The same misfortune occurred to Georg Bendor, a priest of the Wilhelmiter order, who could not remain in his convent in Strassburg (*propter ipsius superioris intollerabile regimen*), and had therefore entered a Benedictine monastery in the diocese of Basel.<sup>34</sup> In both cases The Penitentiary acknowledged the arguments of the petitioners and let them enter another monastery.<sup>35</sup>

Two more examples for *apostasia ab ordine*. Adelheid and Behemyn von Helmstadt, two noblewomen with a prominent clerical background in their family, give plain economic reasoning for their desire to leave their monastery.<sup>36</sup> They pretend to be unable to remain with the Premonstratensians of Scheffterheim *animi sui quiete et sana conscientia*, because the monastery had suffered so much in the course of local feuds, that revenues had diminished dramatically (and the ladies probably could not maintain their usual noble style of living). The Latin text says *propter ipsius monasterii diminutionem et decrescentiam*. They were allowed to transfer to a Benedictine abbey in the Spire diocese, where the family came from. As we can see, conscience was not always driven by purely spiritual arguments.

This also is to be suspected in the petition of Clara de Degenbergh, a noble Augustinian *canonissa* from Regensburg.<sup>37</sup> She pretends she could not stay with the Augustinians *cum animi sui quiete*

32. RPG II, 912 (29.2. 1452).

33. RPG III, 3 (1.4. 1455).

34. RPG IV, 928 (4.6. 1459).

35. Other cases of petitioners, who want to leave their religious houses, because they cannot remain there *sana conscientia et quiete animi* are registered in RPG II, 993, 998; III, 7; IV, 844, 1053, 1418; V, 985.

36. RPG II, 1044 (1.10. 1453).

37. RPG VI, PA 28 fol. 130r (1478).

*et sana conscientia*; but as she at the same time asks for the license to transfer to the Benedictine order and to get permission to hold offices there (*quod ad omnia officia ac dignitates et administrationes ordinis s. Benedicti eligi et assumi possit*), one may assume that she was looking forward to become an abbess!

### Dispensation from fasting and abstinence rules

The same more or less materialistic background seems to apply in the next type of dispensation, which occurs rather frequently within the registers of the Penitentiary, the dispensation to use egg, butter and cheese during Lent and fasting times, the so-called 'Butterbriefe'. The general rule to refrain from meat and dairy products during almost 150 days of the year was binding for every Christian from the seventh year of age onwards. During the fifteenth century dispensation was requested on a large scale especially in southern Germany, either from individuals or from entire communities. The interesting point is that while a precise answer is given as how to proceed to corporate petitioners, for individuals the decision frequently is left to the conscience of the supplicant.

The parochial people of several small villages on the upper Rhine between Kaiserstuhl and Lake Constance get their dispensation with the differentiation that all men and women were allowed to use butter instead of (olive) oil, but only weak and ill persons could eat *lactinia*, but no cheese.<sup>38</sup>

Not so with individual petitioners. When the noblewomen Mechthild, the wife of the Landgraf of Hassia, asked for the fast-dispensation in 1459, she received a positive answer with the condition *relinquatur sue conscientie*.<sup>39</sup> This seems to be the standard formula from now on through all the following pontificates of Pius II, Paul II and Sixtus IV. The condition is used for example in the supplication of Ewald Faulhaber, a canon of the church of Mainz.<sup>40</sup> Guntherius, count in Swartzburgk and Margareta, his wife from Mainz archdiocese (or probably her proctor in Rome) added as an argument in favor of their petition *cum in comitatu et locis cir-*

38. RPG IV, 1705 (19.4. 1464).

39. RPG IV, 1115 (9.11. 1459).

40. RPG IV, 1359 (18.7. 1461).

*cumvicinis non reperitur nisi oleum raparum*. They also received the standard positive response: *Et quod relinquatur conscientiis ipsorum*.<sup>41</sup> Almost all of the supplicants in this matter belong to a higher level of late medieval society: Gaspar de Meckaw, Benedictine abbot of Chemnitz,<sup>42</sup> Henricus Munsinger, medical doctor from Worms,<sup>43</sup> William duke of Saxony and his wife,<sup>44</sup> the commander of the German Teutonic knights in Thüringen, Conrad Berdersheym,<sup>45</sup> bishop Gebhard of Halberstadt,<sup>46</sup> Magdalena Nickels from Münster.<sup>47</sup>

Petrus Schilling from the cathedral church of Mainz<sup>48</sup> gets the same positive answer, but he has to decide with his own conscience whether he is so frail and old (as he told the Pope in his *supplicatio*), that he could not survive without eating eggs and *lacticinia*, as the proper word of the formularies for dairy products reads. This kind of petition was usually left to the conscience of the supplicant.<sup>49</sup>

### Sins in juvenile age

The human conscience seems to have had very deep roots. Most impressive are supplications where the petitioner recalls events that lay way back in the past, sometimes in their juvenile age. In these cases it seems to be quite unlikely that social or legal pressures provoked the men or the women to address the Penitentiary and to ask for relief from the papal 'well of grace'. Very often the *narrationes* are touching, indeed. Let's take the supplication of a certain Ulricus de Lar from Passau.<sup>50</sup> As he wanted to be enrolled in the *militia clericalis* and to become a priest and as legitimate birth was a canonical requirement for ordination, he asked his mother, whether he was a son of a legitimate couple (there must have been some rumour about this in the neighbourhood!). His mother informed him, that

---

41. RPG V, 957 (1465).

42. RPG V, 1149 (1466).

43. RPG V, 1300 (1466).

44. RPG VI, PA 20 fol. 222v (1472).

45. RPG VI, PA 28 fol. 128r (1478).

46. RPG VI, PA 28 fol. 139v (1479).

47. RPG VI, PA 28 fol. 144v (1479).

48. RPG IV, 1056 (6.11. 1453).

49. RPG VI, PA 20 fol. 223r (1472).

50. RPG II, 2211 (24.4. 1452).

he was conceived before matrimony, but that she and his father married before his birth, and therefore there was what is called in the terms of canon law a *matrimonium sanatum*. When his mother died, doubts again arose with Ulricus about the truth of his birth, and he wrote to the Pope asking for dispensation from his *defectus natalium ad cautelam*, because he felt a scrupulous conscience.

John Bere, at the time of his petition subdeacon in Schwerin, asked for absolution, because as a young scholar he had participated in scholarly skirmishes, which ended in bloodshed. As there were some clerics involved, he feared to have acted against canon 15 of the Second Lateran Council thus running into excommunication *ipso facto*. Now after many years he went to the papal court in person *conscientia motus*, as he wanted to remove an obstacle to being ordained as a priest and to receiving benefices.<sup>51</sup> In Florence, where Pope Eugene IV was residing at that time, his case was taken care of by a minor penitentiary.

A tragic story from everyday life (probably of sudden infant death, as the medical jargon goes) is reported by Michael Rosenstyngel, a priest from the diocese of Speier.<sup>52</sup> As a boy, he tells in his supplication, he stayed with a family with two children, a girl of seven to eight and an infant boy. When their mother left home one day she told the girl to take care of the infant, who in turn asked Michael to bring the boy within his cradle into another room, which he did. When the mother returned home, she found the infant dead in his cradle. Although Michael felt very sorry about his death, he never lost the pain of guilt, and *ad relevandum sue conscientie scrupulum*, notwithstanding that he had been absolved *a multis*, he wants to get a declaration from the Holy See (*sed ad maiorem cautelam per sanctitatem vestram supplicat declarari*) that he had not contracted either an irregularity or inability for holy orders.

### Murder, killing and injury

We have already mentioned some supplications, where petitioners asked for absolution from an automatic excommunication they had contracted by taking part in skirmishes involving the blood-

51. RPG I, 447 (25.4. 1439).

52. RPG I, 626 (28.4. 1441).

shed of clerics, from which only the Pope could absolve them. During the pontificate of Pius II (1458-1464) every second case registered in the section *De diversis causis* of the *Repertorium Poenitentiarum Germanicum* contains stories reporting murder, arson, robberies with violence and injury highlighting the strong general tendency towards violence in the later Middle Ages. As the negative consequences for clerics involved in such actions were considerable (they could not serve at the altar any more nor keep benefices with *cura animarum*), the social pressure to get papal absolution and dispensation must have been stringent. But within the motives to ask for the papal grace we have to notice not only the firm desire to continue an ecclesiastical career but at the same time the deep remorse of a bad conscience.

Henricus Erasmi, a priest from Passau diocese, had as a young scholar enrolled at the University of Vienna and during that time had been involved in some fighting between students in a town and gown struggle in the city of Vienna, where some of the clerical participants died. Therefore Henry had gotten absolution the first time from Pope Eugene IV (†1447)<sup>53</sup> through the Maior Penitentiary, and according to this he had been ordained priest. In 1449 he once more addressed the Penitentiary office, because in the *littera*, which had been written, *propter certa verba per inadvertentiam procuratoris minus bene posita* he fears, that (as the *veritas precum* might be challenged) his absolution could be nullified. Therefore he tells us in the *narratio* of his second petition that *scrupulo conscientie motus* he had refrained from saying mass, asking for another absolution. He gets the absolution, but (again?) only *citra ministerium altaris*, which means that he was not admitted to serve at the altar and not allowed to keep benefices *cum cura animarum*. Correctly so, because a priest, who had been in some way or another involved in an act of murder, according to canonical tradition, would never have been allowed to serve at the altar again.<sup>54</sup> Perhaps Henry not only felt his conscience burning but feared, much more, that he might have lost his benefice. Was his burning conscience just a pretext for keeping the benefice?

Another interesting case is to be found among the supplications of the pontificate of Nicolas V, this time coming from the mighty

53. RPG II, 107 (27.12. 1449).

54. See Schmutge 1996, esp. p. 61.

realm of medicine.<sup>55</sup> Nicolas Pfeffer, who at the time of his supplication in 1451 was a priest and monk of the Benedictine monastery of Melk (Austria), was in his youth a servant to a surgeon. When assisting this doctor, Nicolas thought that in some cases he might have contributed to the death of several patients. He later did the same job for another surgeon, this time medicating and cutting the patients himself with the effect, that three people died from his surgery. Now, after he had spent many years in the Benedictine community of Melk, he asks the Pope *pro serenatione conscientie* to be absolved *in foro conscientie* from eventually contracted excommunications. The decision of the Penitentiary is remarkable: He was to be dispensed, if he and his boss (*dominus*) had applied a sufficient medical skill as a doctor (*si exponens peritiam sufficienter tradidit et tam ipse quam dominus diligentiam debitam adhibuerunt*).

There are two other medical doctors presenting a similar problem to the Penitentiary. The first one is Franciscus Kortz from Breslau, who before becoming a priest served for more than six years as a physician. During this period, he declares, he might have given medication, which caused death to some of his patients. After being ordained he continued to practice. Now he asks for dispensation *ad cautelam* for the deaths he might have caused.<sup>56</sup> The other, Conradus Deynhart from the diocese of Mainz,<sup>57</sup> did provide for several persons medical help *cum diligentia*, as he writes. Nevertheless sometimes the contrary happened (*licet interdum contrarius eventus sequeretur*) and some of the patients died. The Penitentiary committed his request to be ordained priest to his bishop, who had to decide *secundum canonicas sanctiones*. Today our physicians protect themselves against the accusation of medical malpractice by paying enormous amounts of insurance. In the fifteenth century it was still a matter of conscience and of papal absolution!

Violence was not only a matter for clerics, many lay persons – men and women – also directed their petitions to Rome. Herman Matlin, who ran a hotel (*hospes*) in Tuisis, Chur diocese, around the year 1452<sup>58</sup> got involved in a feud between a local antifeudal association, the Liga *Graupunt*, and a nobleman in the service of the

55. RPG II, 880 (24.10. 1451).

56. RPG III, 382 (6.1. 1457).

57. RPG III, 549 (6.2. 1458).

58. RPG II, 972 (18.12. 1452).

bishop of Chur, whose name was John of Rechberg. During those civil-war-like events a friar, suspected to be a friend of the nobleman, was placed in custody in his hotel. One day a crowd of supporters of the *Graupunt*, notwithstanding the protest of Herman, took the friar by force and killed him in a most savage way outside the hotel. Herman, *pro serenatione conscientie sue*, seeks for a declaration that he was not guilty of killing a priest (*presbitericidium*), of which he might have been accused by the bishop.

Petrus de Graboszewo was engaged in the service of the King of Poland and with his army took part in many wars, battles, and killings (although, as he pretends, he did not kill anyone himself, *nulum propria manu interfecit*).<sup>59</sup> To get absolution with the scope to be ordained priest he went to Rome in person, where his desire was fulfilled by the Penitentiary and he himself ordained. Later on *scrupulo conscientie motus* he came to the Roman Curia a second time. It's not quite clear, why Petrus went there twice, maybe that his narratio at the first time was incomplete. Thomas Weyspacher from Salzburg reported similar war-experience: He was not enlisted in a king's army, but he fought for the man whom he asked for dispensation, the Pope! Thomas as a *Landsknecht* had been enrolled within the ranks of the famous condottiere Nicola Pizolini (*qui tunc capitaneus pro parte Romani pontificis fuit*).<sup>60</sup> He claims, like Petrus, not to have killed anybody himself. The local priest, to whom Thomas confessed, did not dare to absolve him, sending him instead to Rome so that he might be ordained after the Penitentiary would have declared him free from the crime of homicide.

### Avoiding interdict and excommunication

One of the most powerful weapons of the Papacy against its real or pretended enemies has always been excommunication and interdict.<sup>61</sup> No doubt, this sword had long since lost quite a bit of its cutting edge, as it had been worn out by indiscriminate use. During the Great Schism, when the rival pontiffs issued a plethora of excommunications and interdicts against each other and the re-

59. RPG II, 1028 (27.3. 1453).

60. RPG II, 1040 (15.9. 1453).

61. Vodola 1986. Peter Clarke, Cambridge, is preparing a book on interdict.

spective partisans, the sword did not threaten anyone at all. When church unity was regained after the Council of Constance, both penalties also regained some of their previous effectiveness.

In the course of the fifteenth century local ecclesiastical conflicts have reaffirmed the meaning of both measures within the German Empire with negative consequences for the faithful. Church service was interrupted over a longer period of time in the diocese of Mainz during the so-called 'Mainzer Stiftsfehde' (1461-1463), in Münster, when two contenders fought for the episcopal see for seven years (1450-1457), during a conflict in Lüneburg known as the 'Lüneburger Prälatenkrieg' (1450), or in the territories of duke Sigismund of Austria during the time he had been excommunicated because of his resistance against Nicolaus Cusanus as bishop of Brixen.<sup>62</sup> When public mass service was suspended, the Penitentiary could provide a way out of this dilemma for the faithful: They could ask for the licence to hear mass and celebrate other *officia* during an interdict.<sup>63</sup> This licence was regularly granted under the condition, that the interdict was neither placed nor confirmed by the Holy See. Typically, this kind of licence was applied for in those territories, where long lasting ecclesiastical conflicts occurred.<sup>64</sup> As most of the petitioners were laymen and -women one may assume, that spiritual reasons underly the requests, and that profound reverence towards the sacraments of the Church urged the petitioners to ask for this licence. This observation does not support the thesis, that late medieval Christians were only quite superficially 'Christianised'.

### *Commutatio voti*

When Martin Luther, travelling between Mansfeld and Erfurt on the second of July 1505, ran into a thunderstorm he was so terrified of being killed by a bolt of lightening that he called upon

---

62. See Gerlich 1992; Brosius 1976; Baum 1983.

63. See Schmutge, Hersperger and Wiggerhauser 1996, pp. 125-32.

64. See the supplications of the noble couple de Exterde from Paderborn (RPG V, 1008 (1459)), from Lambertus Hoyken and his wife from Münster (RPG V, 1165 (1466)), from Dietrich de Grolle and his wife Catherina from Münster (RPG VI, PA 20 fol. 173r (1472)), Hermann Crampe and his wife from Münster (RPG VI, PA 28 fol. 136r (1479)).

Saint Anna and promised her that he would become a monk, if she would save him from sudden death. Even if we can doubt whether this vow was a *votum sollemne*, Martin Luther behaved quite normally for his time. What instead seems to have been unusual for a learned man, who had studied law, is that he fulfilled his promise. He could have done otherwise by asking the papal Penitentiary for *commutatio voti*, just as many other people have done before and since.<sup>65</sup> What has been done under the impact of fear (*per vim et metum*) was not legally binding, as canon law has stated, and thus could be altered or even nullified.<sup>66</sup> Maybe the history of Europe would have had some other course, if Luther had followed this path!

Other people in the middle of the fifteenth century did not show any scruples at all in similar situations, and the Penitentiary dissolved all kinds of vows: *vota castitatis*, *vota peregrinationis*, as well as *vota intrandi ordinem*, the type of vow Martin Luther had made. Georg Sanigerne and his elder brother from Dorpat were sailing (probably as merchants) in the Baltic Sea, when a terrible storm came upon them and their vessel; they then made the vow to enter a religious order, if God would let them survive the storm. They survived and pretty soon looked for absolution from this vow, which they got – first (illegally) from an Antonite friar, who pretended to have power to absolve, and in 1456 from the Roman Penitentiary.<sup>67</sup>

## Conclusion

It may seem rather hazardous to come to any general observation towards the medieval conscience on the basis of a couple of individual supplications to the Penitentiary. Let's try it anyhow!

The registered texts show an elaborated, sometimes very sensitive conscience of the single petitioner, and they show some quite detailed knowledge of the commandments of the Church and the rules of canon law. A statistical examination of the territorial distribution of petitioners throughout Europe could provide more information about regional differences. Certainly, people did not

65. Cf. RPG IV, 962, 1241.

66. See X 1.40.2 and 4. Friedberg, ed. 1879-81, II, col. 220.

67. RPG III, 212 (23.2. 1456).

ask for absolution, dispensation and licences only because of their burning conscience, in some cases they may have been driven by social constraints as well. 'Sozialdisziplinierung' resulted not least from an increasing control of conscience, and not only by the Church.<sup>68</sup>

It seems to me that the conscience developed differently in the distinct social layers of society: Emerging classes (lower nobility, leading groups in towns) seem to have been more inclined to accept the moral rules and canonical prescriptions set up by the Church. For them it was important to be 'in regola' with the Church and the social environment heavily controlled by ecclesiastical regulations.

The educational effect of conciliar and papal legislation since the Fourth Lateran Council had not been in vain. Slowly but constantly the transformation of the *canones* into widely accepted norms throughout late medieval Christianity penetrated the capillary system of church organisation from archdiocese to the single parish.<sup>69</sup>

The picture of a guilt-ridden Christianity, as presented by De-lumeau and his followers, does not correspond with the source-material preserved in the registers of the Penitentiary. Decisions by the officers of the 'well of grace' are often left to the conscience of the petitioner, his family,<sup>70</sup> or a local authority.

Looked at from the registers of the most important court of conscience, the Penitentiary, the pre-Tridentine church has preached not only 'una religione dell'autorità', but at least to quite some extent 'una religione della coscienza' as well.<sup>71</sup> I would like to stress that the Penitentiary offered, before Martin Luther, in cases of

---

68. I agree with Adriano Prospero, who states: 'L'imposizione di una disciplina sociale passò attraverso il suo radicamento nelle coscienze', Prospero 1995, p. XII.

69. I cannot follow the judgement of Alberigo 1998, p. 160: 'Il distacco del diritto canonico dalla riflessione teologica si consumava così nelle sue progagini più estreme con la conseguenza di inasprire la polemica anticuriale, che denunciava in questo sistema non solo gravi deformazioni, ma una irreparabile e definitiva rottura con il cristianesimo autentico'.

70. When petitioners ask for the licence to bury persons, who died excommunicated without being absolved before, the Penitentiary grants a Christian burial under the condition that in the person before his death *apparuerunt signa contritionis*. See for example RPG IV, 908.

71. Prospero 1995, p. 214.

tormented conscience to the faithful (in the words of Prosperi) ‘un’offerta consolante per le coscienze perplesse e aggravate dal peso del peccato’.<sup>72</sup>

Prosperi, in his admirable book, did not study the relationship between Penitentiary and Inquisition. As there are many supplications from petitioners, who had been investigated by the Inquisition (in particular by the Spanish Inquisition),<sup>73</sup> asking for protection against inquisitors, we may conclude that there did exist a remedy against the Inquisition: a letter from the Penitentiary. Therefore, the abolishment of the medieval Penitentiary by Pius V in 1569 in favour of the Roman Inquisition had very dubious consequences.

## Bibliography

- Alberigo, G. 1998. ‘La Chiesa e l’Europa nel Cinquecento’, in M. Fagiolo and M. L. Madonna, eds. *La Storia dei Giubilei*. Vol. 2. Rome, pp. 150-97.
- Aznar Gil, F. 1994. ‘Die Illegitimen auf der Iberischen Halbinsel im Spätmittelalter’, in Ludwig Schmutge, ed. *Illegitimität im Spätmittelalter* (Schriften des Historischen Kollegs – Kolloquien, 29). Munich, pp. 171-206.
- Baum, W. 1983. *Nikolaus Cusanus in Tirol*. Bozen.
- Brosius, Dieter 1976. ‘Die Rolle der römischen Kurie im Lüneburger Prälatenkrieg’, *Niedersächsisches Jahrbuch*, 48, pp. 107-34.
- Condorelli, Orazio 1995. *Clerici peregrini. Aspetti giuridici della mobilità clericale nei secoli XII-XIV*. Roma.
- Delumeau, Jean 1981. *Un chemin d’histoire. Chrétienté et christianisation*. Paris.
- Friedberg, Emil, ed. 1879-81. *Corpus iuris canonici*. 2 vols. Leipzig.
- Gerlich, A. 1992. ‘Mainzer Stiftsfehde’, *Lexikon des Mittelalters*. Vol. VI. Zürich, col. 144-45.
- Göller, Emil 1907-11. *Die päpstliche Pönitentiare von ihrem Ursprung bis zu ihrer Umgestaltung unter Pius V*. 2 vols. in 4 parts (Bibliothek des Preussischen Historischen Instituts in Rom, 3,4,7 and 8). Rome.
- Göller, Emil 1913. ‘Das alte Archiv der päpstlichen Pönitentiare’, *Römische Quartalschrift*, Supplementband 20 (= Festgabe für A. de Waal), pp. 1-19.

72. Prospero 1995, p. 219.

73. The late Don Filippo Tamburini was preparing a book editing the Spanish supplications against the Inquisition. Prospero 1995, p. 271.

- Haren, Michael 1994. 'Social Structures of the Irish Church', in Ludwig Schmutge, ed. *Illegitimität im Spätmittelalter* (Schriften des Historischen Kollegs – Kolloquien, 29). Munich, pp. 207-26.
- Kittsteiner, Heinz D. 1995. *Die Entstehung des modernen Gewissens* (Suhrkamp Taschenbuch Wissenschaft, 1192). Frankfurt (originally published 1991).
- Logan, F. Donald 1996. *Runaway Religious in Medieval England (c. 1240-1540)*. Cambridge.
- Myers, David 1996. *"Poor, Sinning Folk": Confession and Conscience in Counter-Reformation Germany*. Ithaca.
- Myers, David 1998. 'Ritual, Confession, and Religion in Sixteenth-Century Germany', *Archiv für Reformationsgeschichte*, 89, pp. 125-43.
- Prosperi, Adriano 1995. *Tribunali della coscienza*. Torino.
- Repertorium Poenitentiarie Germanicum*. Vol. I: Eugen IV. (1431-1447), ed. Ludwig Schmutge with Paolo Ostinelli and Hans Braun, Indices by Ludwig Schmutge and Hildegard Schneider Schmutge. Tübingen 1998; vol. II: Nikolaus V. (1447-1455), ed. Ludwig Schmutge, Indices by Ludwig Schmutge and Hildegard Schneider Schmutge. Tübingen 1999; vol. III: Calixt III. (1455-1458), ed. Ludwig Schmutge and Wolfgang Mueller, Indices by Ludwig Schmutge and Hildegard Schneider Schmutge. Tübingen 2001; vol. IV: Pius II. (1458-1464), ed. Ludwig Schmutge with Patrick Hersperger and Béatrice Wiggerhauser, Indices by Ludwig Schmutge and Hildegard Schneider Schmutge. Tübingen 1996; vol. V: Paul II. (1464-1471), ed. Ludwig Schmutge with Peter Clarke and Alessandra Mosciatti, Indices by Ludwig Schmutge and Hildegard Schneider Schmutge. Tübingen 2002.
- Salonen, Kirsi 2001. *The Penitentiary as a Well of Grace in the Late Middle Ages. The Example of the Province of Uppsala 1448-1527* (Annales Academiae Scientiarum Fennicae, 313). Helsinki.
- Schmutge, Ludwig 1995. *Kirche, Kinder, Karrieren. Päpstliche Dispense von der unehelichen Geburt im Spätmittelalter*. Zürich.
- Schmutge, Ludwig 1996. 'Verwaltung des Gewissens: Beobachtungen zu den Registern der päpstlichen Pönitentiarie', *Rivista internazionale di diritto comune*, 7, pp. 47-76.
- Schmutge, Ludwig 2001. 'Die Jubiläen von 1450 und 1475 im Spiegel des Archivs der Pönitentiarie', in W. Brandmüller, ed. *I giubilei nella storia della Chiesa. Atti del Congresso internazionale Roma 23.-26.6.1999*. Rome, pp. 359-75.
- Schmutge, Ludwig, Patrick Hersperger and Béatrice Wiggerhauser 1996. *Die Supplikenregister der päpstlichen Pönitentiarie aus der Zeit Pius' II. (1458-1464)* (Bibliothek des Deutschen Historischen Instituts in Rom, 84). Tübingen.
- Schulze, W. 1987. 'Gerhard Oestreichs Begriff "Sozialdisziplinierung" in der frühen Neuzeit', *Zeitschrift für Historische Forschung*, 14, pp. 265-302.

Störmer-Caysa, Uta 1998. *Gewissen und Buch. Über den Weg eines Begriffes in die deutsche Literatur des Mittelalters* (Quellen und Forschungen zur Literatur- und Kulturgeschichte, 14). Berlin.

Tentler, Thomas N. 1977. *Sin and Confession on the Eve of the Reformation*. Princeton.

Vodola, E. 1986. *Excommunication in the Middle Ages*. Berkeley.

*Unprinted sources*

Archivio Segreto Vaticano, Penitenzieria Ap., Reg. Suppl. 20, 22 and 28.

Archivio Segreto Vaticano, Reg. Vat. 1200, fol. 428r (the bull *Pastoralis cura* (1513)).