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Serving God: Structures of Dependency in the Ecclesiastical Realm

1 Introduction

This chapter investigates the role of the late antique and early medieval Western Church in establishing and perpetuating structures of asymmetrical dependency. It is based on my understanding of penance as an ecclesiastical institution which not only regulated the spiritual practice of both clergy and laypeople but also served as a medium of social control and a gateway to dependency relations such as slavery and bonded labour.[1]

The term "penance" usually refers to ecclesiastical sanctions awarded or undertaken for sin. This practice was first introduced in early Christianity as a means to repent for sins committed after conversion and baptism. The earliest Church Councils and Church father writings describe penance as a fairly regulated system with several tiers.[2] Within this system, the penitents likely underwent a public and humiliating process during which they were separated from the Christian community and expected to express their contrition in ritualized acts such as wailing, kneeling, and praying. On completion of their penance they were welcomed back into the Christian community which was symbolized through the imposition of hands and the participation in the eucharist. The whole process was understood to cleanse the penitents from sin, like baptism had done, so that they would be prepared to face God's judgment in the afterlife.

From the late sixth century onwards, a supposedly different form of penance is conveyed to us through the existence of the so-called penitentials.[3] These relatively

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1 Cf. Julia Winnebeck, "Moving Late Antique and Early Medieval Penance (c. 550–800) into the Purview of Slavery and Dependency Studies", *Journal of Global Slavery* 9 (2024): 129–65.

2 For example Tertullian, *De paenitentia* 7–12, Cyprian, *Epistulae* 15, 1; 16, 2; 17, 1, and Basil of Caesarea, ep. 217, 56; cf. Gustav A. Benrath, "Buße V. Historisch," in *Theologische Realenzyklopädie*, vol. 7, *Epistulae* Gerhard Krause and Gerhard Müller (Berlin: De Gruyter, 1981): 453; Peter Gemeinhardt, *Geschichte des Christentums in der Spätantike* (Tübingen: Mohr Siebeck, 2022): 229–31.

3 It is not entirely clear, how exactly the practice of the penance envisioned in the earliest extant penitentials relates to the type known to us from the Early Church which is commonly referred to as "public penance". Initially, the opinion prevailed that through the influence of insular (Irish) monasticism a more "private" (or tariffed) form of penance was introduced in the Western Church at the end of the 6th century. It was thought that this "newer" form of penance was allowed for the repentance of a variety of sins largely by means of extended periods of fasting while major sins still had to be atoned for through public penance. The principal witnesses for this traditional view on penance are Bernhard Poschmann, *Die abendländische Kirchenbuße im frühen Mittelalter*, Breslauer Studien zur historischen Theologie 16 (Breslau: Müller & Seiffert, 1930); Josef A. Jungmann, *Die lateinischen*

short handbooks elaborate on a range of different sins and recommend appropriate sanctions. According to the severity of the sin, these sanctions vary greatly in length and rigor: Whereas minor sins could, for example, be repented for by the singing of psalms, severe crimes required lengthy periods of fasting often socially isolated from the community and in connection to additional punishments like exile, confinement, compensation payments, and even enslavement.

Even though today only about 300–400 manuscripts containing penitential texts remain,[4] it is thought that these handbooks for priests were widely circulated at the time and formed part of the basic equipment of the clergy in Francia and beyond. There is, however, an ongoing discussion about the penitentials' context of application:[5] They can be read as witnesses for the pious practice of Christians in the form of the confession of ones' sins to a cleric and their subsequent remission via the process of penance. Alternatively, the penitentials can be perceived as evidence for the fact that local churches and monasteries acted as a sort of court of arbitration which handled civil as well as criminal matters. These two readings are of course not mutually

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Bußriten in ihrer geschichtlichen Entwicklung, Forschungen zur Geschichte des innerkirchlichen Lebens 3–4 (Innsbruck: Rauch, 1932), and Cyrille Vogel, *Les 'Libri Paenitentiales,'* Typologie de Sources du Moyen Âge Occidental 27 (Turnhout: Brepols, 1978). More recently, researchers have challenged the traditional narrative of the history of penance and instead suggested to understand early medieval penance as a rather complex structure of coexisting norms and practices, cf. e.g. Sarah Hamilton, "Bishops, Education, and Discipline," in *The Oxford Handbook of Medieval Christianity*, ed. John H. Arnold (Oxford: Oxford University Press, 2014): 533; Mayke de Jong, "What Was Public About Public Penance? *Paenitentia Publica* and Justice in the Carolingian World," *La giustizia nell'alto medioevo ii, Settimane di studio del Centro Italiano di Studi sull'Alto Medioevo* 44 (1997): 863–904; Mayke de Jong, "Transformations of Penance," in *Rituals of Power from Late Antiquity to the Early Middle Ages*, eds. Frans Theuws and Janet L. Nelson (Leiden: Brill, 2000): 185–224; Rob Meens, "The Historiography of Early Medieval Penance," in *A New History of Penance*, ed. Abigail Firey (Leiden: Brill, 2008): 89; Rob Meens, "The Frequency and Nature of Early Medieval Penance," in *Handling Sin. Confession in the Middle Ages*, ed. Peter Biller, York Studies in Medieval Theology 2 (Woodbridge: York Medieval Press, 1998): 37; Rob Meens, "The Irish Contribution to the Penitential Tradition," in *The Irish in Early Medieval Europe – Identity, Culture and Religion*, eds. Roy Flechner and Sven Meeder (New York: Bloomsbury, 2016): 134.

At the same time, the authority of bishops and their monopolistic agency (Schlüsselgewalt) in the system of penance have been challenged in publications such as Steffen Patzold and Carine van Rhijn, eds. Ergänzungsbände zum Reallexikon der Germanischen Altertumskunde 93 (Berlin: De Gruyter, 2016).

4 Cf. Ludger Körntgen, *Studien zu den Quellen der frühmittelalterlichen Bußbücher*, Quellen und Forschungen zum Recht im Mittelalter 7 (Sigmaringen: Thorbecke, 1993): 822; Meens, "The Frequency and Nature": 39.

5 Cf. Alexander Murray, "Confession before 1215," in *Transactions of the Royal Historical Society* 3 (1993): 51–81; Franz Kerff, "Libri Paenitentiales und Kirchliche Strafgerichtsbarkeit bis zum Decretum Gratiani: Ein Diskussionsvorschlag," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung* 75 (1989): 23–57; and Meens, "The Frequency and Nature".

exclusive and much can be said for an understanding of penance as both, pious practice and a means of social and legal control.

Regardless of the precise context of their application, the penitentials provide an invaluable source for both theological research and social history as they inform us – often unknowingly – about contemporary matters of ethical, legal, and spiritual concern.[6] One particular area which benefits from the closer investigation of the penitentials are slavery and dependency studies.

After decades of pronounced disregard, this field of research has rediscovered late antiquity and the early middle ages as eras of interest.[7] More recent studies have abandoned the focus on identifying continuities and discontinuities between the Roman form of slavery and newer forms of dependency,[8] for example by trying to pinpoint the change from an agrarian and slave-based economy to feudalism or the transition from slaves to serfs. Instead, scholars like Alice Rio have argued for the continued existence and cultural relevance of traditional chattel-type forms of slavery alongside a variety of other forms of dependency in late antique and early medieval societies,[9] and have based those claims, among other sources, on the penitentials.[10]

At the same time, the perception of the relationship between the Christian Church and slavery has changed. Most scholars today reject the ideological narrative of former generations according to which Christianity worked as a major force towards the aboli-

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6 Accordingly, particularly the penitentials have recently received significant attention by scholars like Sarah Hamilton, Ludger Körntgen, and Rob Meens, cf. e.g. Sarah Hamilton, *The Practice of Penance, 900–1050*, Royal Historical Society Studies in History (Woodbridge: Boydell Press, 2001); Körntgen, *Studien zu den Quellen*; Rob Meens, *Penance in Medieval Europe 600–1200* (Cambridge: Cambridge University Press, 2014).

7 Cf. David Wyatt, *Slaves and Warriors in Medieval Britain and Ireland, 800–1200*, The Northern World 45 (Leiden: Brill 2009): 2: 'Until recently scholars of medieval history have rarely discussed slavery. Indeed, many medieval historians have chosen to ignore the subject altogether.'

8 Until *ca.* 1980, the narrative of the end of "proper" slavery with or shortly after the fall of the Roman Empire prevented further research into late antique and early medieval slavery, see Gerhard Horsmann, "Sklave," in *Reallexikon der Germanischen Altertumskunde*, vol. 29, *Skírnismál – Stiklestad*, ed. Heinrich Beck (Berlin: De Gruyter, 2005): 15.

9 Alice Rio, *Slavery After Rome: 500–1100*, Oxford Studies in Medieval European History (Oxford: Oxford University Press, 2017).

10 Some of the penitential evidence on slavery has been considered as early as 1909 by the Dutch Historian and Theologian Frederik Pijper who argued against the former commonplace that the expansion of Christianity eventually ended slavery, Frederik Pijper, "The Christian Church and Slavery in the Middle Ages," *The American Historical Review* 14, no. 4 (1909): 675–95. More recently, the studies of Stefan Jurasinski, *The Old English Penitentials and Anglo-Saxon Law*, Studies in Legal History (New York: Cambridge University Press, 2015); David A.E. Pelteret, *Slavery in Early Mediaeval England: From the Reign of Alfred until the Twelfth Century*, Studies in Anglo-Saxon History 7 (Rochester, NY: Bodydell & Brewer, 1995) and Wyatt, *Slaves and Warriors*, have taken this body of sources into account.

tion of slavery[11] and instead accept the notion of the Church as a major 'slave owning institution.'[12] The discussion on the extent of the Church's *active* involvement with slavery and the theological rationale behind this, however, is ongoing and still requires further research.[13]

Against this backdrop, I will first present the penitential evidence which suggests that the practice of penance did have a fundamentally social dimension and could therefore be exploited as a medium of social control (2). Afterwards, I will evaluate the evidence suggesting a more direct involvement of ecclesiastical institutions with practices like penal enslavement and bonded labour via the system of penance (3). Finally, I will offer a conclusion regarding the character of late antique and early medieval penance and the role of the Church in establishing and perpetuating relations of dependency (4).

2 Penance as Medium of Social Control

For the scope of this paper I will focus on the first generation of penitentials which are those written or composed between the late sixth and the early eighth centuries. These penitentials are also sometimes called "small" or "simple" because, unlike later ones, they largely represent one tradition and only occasionally refer directly to conciliar legislation. The first generation of penitentials comprises altogether five Irish

11 On the current consensus among scholars that there was no general criticism of the institution of slavery in late antiquity or the early middle ages, cf. e.g. Elisabeth Herrmann-Otto, "Sklaverei," in *Reallexikon für Antike und Christentum 31*, ed. Theodor Klauser (Stuttgart: Anton Hiersemann, 2021): 691–751; Martin Ritter, "Christentum," in *Handwörterbuch der antiken Sklaverei*, vol. 1, ed. Heinz Heinen (Stuttgart: Franz Steiner, 2017): 552–53.

12 Wyatt, *Slaves and Warriors*: 29–30: 'Within Christendom, the institution of slavery was accepted by the Church, which made every effort to ensure the master's continuing domination, indeed the Church was a major slave owning institution.'

13 On the ongoing discussion on whether or not Christianity (owing partly to stimuli it had itself received from both antique culture and philosophy, and Judaism) did not in fact provide the necessary impulses which eventually led to abolitionism, cf. Adolf Martin Ritter, "Christentum": 552–53; and Noel Lenski, "Spätantike," in *Handwörterbuch der antiken Sklaverei*, vol. 3, ed. Heinz Heinen (Stuttgart: Franz Steiner, 2017): 2884–85. According to Jurasinski, *Old English Penitentials*: 92, the majority of scholars still maintain that the best churchmen and bishops at least urged sympathy and compassion for those in bondage and promoted their manumission and kind treatment: 'Thus has the Church retained its role in more recent scholarship as ultimately an agent of slaves' liberation [. . .].' Jennifer Glancy has presented a compelling study of the Church's involvement with slavery in the Early Church, cf. Jennifer Glancy, *Slavery in Early Christianity* (Oxford: Oxford University Press, 2002). More recently, Mary Sommar has evaluated the Church's slave ownership, cf. Mary E. Sommar, *The Slaves of the Churches: A History* (New York: Oxford University Press, 2020). However, a comprehensive study of the Church's handling of slavery in legal, social, and theological terms for late antiquity and the early middle ages remains a desideratum.

penitentials,[14] a closely linked group of eight Frankish penitentials,[15] and the Anglo-Saxon penitential ascribed to the school of Theodore of Canterbury.[16] These penitentials contain two types of evidence pertaining to the social dimension of penance: the first are hints to means of exercising pressure that could be and possibly were employed to enforce penance. The second type of evidence concerns the character of the penitential sanctions: a range of sins are sanctioned with compensation payments, corporal punishment, exile or even enslavement – all of which suggest an understanding of penance as a penal or legal measure rather than a purely spiritual exercise.

2.1 Means to Enforce Penance

Particularly the early Irish penitentials, most of which probably originated in a monastic context in the sixth and early seventh centuries, contain evidence to suggest that non-repentant sinners were put under significant pressure to undergo penance. In order to enforce certain behaviors or compliance with the designated penance,[17]

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14 These are the *Paenitentiale Vinniani* (middle of the sixth century), *Paenitentiale Columbani* (late sixth century), *Paenitentiale Cummeani* (first half of the seventh century), *Paenitentiale Bigotianum* (between late seventh and late eighth centuries), all ed. Ludwig Bieler, *The Irish Penitentials. With an Appendix by Daniel A. Binchy*, Scriptores Latini Hiberniae (Dublin: Dublin Institute for Advanced Studies, 1963) and the *Paenitentiale Ambrosianum* (first half of the seventh century), ed. Körntgen, *Studien zu den Quellen*: 258–70.

15 These are also sometimes called *paenitentialia minora* or *simplices*. The first generation Frankish penitentials comprise of the *Paenitentiale Burgundense*, the *Paenitentiale Bobbiense*, the *Paenitentiale Floriacense*, the *Paenitentiale Parisiense simplex*, the *Paenitentiale Sangallense simplex*, the *Paenitentiale Hubertense*, the *Paenitentiale Oxoniense* I, and the *Paenitentiale Sletstatense*, all ed. Raymund Kottje, *Paenitentialia Minora, Franciae et Italiae Saecvli 8–9*, Corpus Christianorum Series Latina 156 (Turnhout: Brepols, 1994). Most of these eight penitentials are only extant in one manuscript and were likely compiled between the late seventh and the ninth centuries.

16 The *Paenitentiale Theodori* (c. 700), also known as *Iudicia Theodori* or *Canones Theodori*, is extant in multiple versions. The historically most influential one is the so-called *Discipulus Umbrense* (U) which was compiled around 700 by one of Theodore's followers. It was edited by Paul W. Finsterwalder, *Die Canones Theodori Cantuariensis und ihre Überlieferungsformen* (Weimar: Böhlau, 1929): 285–334. A more recent, critical edition can be consulted online and will be used throughout this chapter, cf. Michael D. Elliot, "Paenitentiale Umbrense," University of Toronto, n.d., http://individual.utoronto.ca/michaelelliot/manuscripts/texts/transcriptions/pthu.pdf; [accessed 19.12.2022].

17 Cf. *P. Cummeani* III 13; *P. Theodori* (U) XI 5 (threat of being cast out of the church for frequently ignoring fasts), and XII 1–2 (reports Greek practice to excommunicate people who miss communion). In *P. Cummeani* IV 3 and *P. Bigotianum* IV 4, penance on bread and water itself is used to enforce a certain behavior.

sinners were not only to be excluded from the celebration of the eucharist, but were considered *anathema* to all Christians.[18]

The vast majority of evidence for this demand for social exclusion can be found in the *Paenitentiale Ambrosianum* and the penitential of Cummean within which the "casting out" of the sinner or a sort of staggered excommunication appears to be the first reaction to encountering sin.[19] The notion of sin as a spreading infection, which needed to be cut out immediately in order to protect the rest of the body seems to have formed the background to this measure. For example, the penitential of Cummean demands that '[h]e, however, who will not confess to him who has incensed him, that pestilential person shall be cut off from the company of the saints; if he repents, he shall do penance for as long as he was recalcitrant.'[20]

In practice this may have meant that other members of the respective Christian community were banned from any social interaction with the sinner who was – temporarily or permanently – considered socially dead.[21] In most instances, the penitential canons in question seem to envision the context of a close-knit monastic community where the 'disobedient' were to 'remain outside the assembly, without food' and expected to 'knock humbly' to demonstrate their commitment to being readmitted.[22]

One provision in the earliest extant penitential, the *Paenitentiale Vinniani*, goes a step further in demanding that the sinner 'be driven from the bounds of his country and beaten with rods until he is converted, – if he has compunction.'[23]

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18 Cf. e.g. *P. Vinniani* 31. On penitential sanctions resulting in social exclusion cf. also Rob Meens, "Exil, Buße und sozialer Tod," in *Sterben über den Tod hinaus. Politische, soziale und religiöse Ausgrenzung in vormodernen Gesellschaften*, eds. Claudia Garnier and Johannes Schnocks (Würzburg: Ergon, 2012): 117–31.

19 Cf. e.g. *P. Ambrosianum* III 6, IV 12, V; *P. Cummeani* III 3, III 14–15, V 3, VII 1; *P. Bigotianum* III 6 2. On this cf. Meens, "Exil": 120, 124–25.

20 P. *Cummeani* IV 16, ed. and trans. Bieler, *Irish Penitentials*: 120–21: *Qui uero non uult confitere ei qui se commotauit, abscedatur pestifer ille a coetu sanctorum; si penitet, quanto tempore contradicit tanto peniteat.* Cf. *P. Ambrosianum* IV 12.

21 P. *Cummeani* IX 2 punishes people who "communicate" with cast outs, i.e., individuals who had been excommunicated, with 40 days of fasting. It is unclear whether *communicauere* in this instance refers to social interactions with cast outs or merely to celebrating the eucharist with them. The *P. Bigotianum* 36 elaborates on the reasons why sinners needed to be separated from the community of the righteous and, in reference to *Collectio Hibernensis* XL 1c, explains what the separation entailed: 'There are three ways in which the just are separated from the unjust – by the Mass, the table, and the kiss of peace.'

22 *P. Cummeani* VIII 4, ed. and trans. Bieler, *Irish Penitentials*: 122–23: *Inoboediens maneat extra concilium sine cibo et pulset humiliter donec recipiatur quantoque tempore inoboediens fuit tanto in pane at aqua sit*. Cf. *P. Ambrosianum* VIII 2–4 and *P. Cummeani* VIII 5–6, which assign similar punishments for disobedience, blasphemy, and murmuring. Cf. also *P. Bigotianum* VIII 4–5.

23 *P. Vinniani* 31, ed. and trans. Bieler, *Irish Penitentials*: 84–85: *Si autem non conuersus fuerit, excommunicetur et anathema sit cum omnibus Christianis; exterminabitur de patria sua et uirgis uirgeatur usquequo conuertatur si conpunctus fuerit*. The context of this provision is formed by a series of canons that deal with the sin of defrauding churches and monasteries, cf. *P. Vinniani* 30.

As far as the laity were concerned, the penitential of Theodore indicates that, in addition to the imposition of the social stigma associated with exclusion from mass and the eucharist, the ecclesiastical institutions had further means of enforcing penance at their disposal. For repeated breaches of the Sunday observance, the penitential proposed flogging or the confiscation of part of the property.[24] Meanwhile adulterous women were offered penance in monastic confinement as a way to preserve some of their inheritance. The canon in questions states that '[i]f a woman is an adulteress and her husband does not wish to live with her, if she decides to enter a monastery she shall retain the fourth part of her inheritance. If she decides otherwise, she shall have nothing.'[25]

2.2 Penance and Punishment

The second type of evidence pertaining to the social dimension of penance are the kinds of sanctions we find in the penitentials. Particularly the Irish and the Anglo-Saxon handbooks of penance contain a range of provisions in which the awarded penance comprises an extended period of fasting (which one might consider the actual penance) and one or more other sanctions which might rather be considered legal measures or punishments.[26]

For instance, the penitentials occasionally prescribe corporal punishments either as a means to enforce penance or as a sanction for sin. Corporal punishments seem to have been largely reserved for lower clergy and adolescents though.[27]

The same limitation of a set of punishments to a specific group of people applies to disciplinary measures like deposition, degradation or the ban from entering higher office,

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24 *P. Theodori* (U) XI 1, ed. Elliot, *Paenitentiale Umbrense*: 14: *Qui operantur die dominico: eos Greci prima uice arguunt; secunda tollunt aliquid ab eis; tertia uice partem tertiam de rebus, aut uapulant, uel VII diebus penitea‹n›t.* Translation John T. McNeill and Helena M. Gamer, *Medieval Handbooks of Penance: Translation of the Principal Libri Poenitentiales and Selections from Related Documents* (New York: Columbia University Press, 1938): 194: 'Those who labor on the Lord's day, the Greeks reprove the first time; the second, they take something from them; the third time [they take] the third part of their possessions, or flog them; or they shall do penance for seven days.'

25 *P. Theodori* (U) XXVII 11, ed. Elliot, *Paenitentiale Umbrense*: 28: *Mulier si adultera est et uir eius non uult habitare cum ea: si uult illa monasterium intrare, quartam partem suae hereditatis obteneat; si non uult, nihil habeat.* Translation McNeill and Gamer, *Medieval Handbooks of Penance*: 209.

26 Within the Frankish penitentials, I was only able to identify altogether eleven canons witnessing to sanctions other than fasting. These are *P. Burgundense 1 et par*, which sanction homicides perpetrated by clergy with exile and satisfaction or degradation, *P. Burgundense* 30 *et par*, which decree the excommunication and the exclusion from the Christian community of clergy refusing penance after taking a wife, *P. Hubertense* 39 which orders exile for assaulting one's own parents, and *P. Hubertense* 51, which assigns the same punishment for fornication with one's Godparent.

27 Cf. *P. Columbani* A 9 (50 strokes or imposition of silence for contradicting someone), B 26–27 (strikes and blows as punishment for minor offences); *P. Theodori* (U) II 11 (whipping for boys who fornicate mutually). Corporal punishments are also prescribed to lower status groups in contempo-

which the penitentials could of course only impose on their own staff.[28] Reasons for these disciplinary sanctions include mainly sins of fornication but also office violations, such as stealing, failing to baptize sick people or newborns, and superstitious practices.[29]

Most frequently, however, the punishment prescribed in addition to fasting consists of the demand for compensation (*satisfactio*).[30]

Especially the penitentials of the Irish and Anglo-Saxon traditions frequently assign *satisfactio* for sins and crimes that were considered grave or disruptive, like bodily harm, fornication, theft or manslaughter. The term is predominantly used in the sense of an actual financial compensation for the harm done.[31] If, for example, a layman physically hurt another, he was ordered to pay a certain amount (a *pretium*) to cover the doctor's bills and the financial loss the injured suffered due to being ill or disabled following the attack.[32] A good example for this sort of compensation can be found in the penitential of Cummean which reads as follows:

> He who by a blow in a quarrel renders a man incapacitated or maimed shall meet (the injured man's) medical expenses and shall make good the damages for the deformity and shall do his work until he is healed and do penance for half a year.[33]

Compensation in the form of payments or sanctions resulting in financial loss are also required for sins of fornication. For instance, a man who had sexual intercourse with a married woman was expected to pay the betrayed husband her chastity price (*pretium pudicitiae*).[34] In case a man had sexual relations with an unmarried woman, the

rary conciliar legislation, cf. e.g. *Concilium Aspasii* 551, cn. 3, *Concilium Narbonense* 589, cn. 14 and 15, and *Concilium Matisconense* II (585), cn. 1, all ed. Charles de Clercq, *Concilia Galliae A. 511–A. 695*, Corpus Christianorum Series Latina 148A (Turnhout: Brepols, 1963): 163–64; 256–57; 239–40.

28 For examples on disciplinary punishments for clergy, cf. *P. Vinniani* 11 and 12; *P. Cummeani* II 1; *P. Bigotianum* I 1; *P. Theodori* (U) I 1 and V 1.

29 Cf. *P. Theodori* (U) IX 1 (fornication), IX 2 (return to secular habit), IX 4 (marrying a strange / foreign woman), IX 6 (having a concubine as hindrance to ordination), IX 7 (failing to baptize a sick person), IX 8 (killing or fornication), IX 10 (remarriage as hindrance to ordination), XIV 28 (failing to baptize a pagan child who later dies), XV 4 (performing superstitious acts).

30 On the sanction of *satisfactio* in the penitentials cf. extensively Rob Meens, "Penance and Satisfaction: Conflict Settlement and Penitential Practices in the Frankish World in the Early Middle Ages," in *Wergild, Compensation and Penance: The Monetary Logic of Early Medieval Conflict Resolution*, eds. Lukas Bothe, Stefan Esders, and Han Nijdam (Leiden: Brill, 2021): 219–30.

31 In *P. Cummeani*, however, I have found some examples for the term being used more in the sense of making an (official) apology. *P. Cummeani* IV 12, for instance, requires the penitent to make satisfaction, live secluded, and do penance for seven days for cursing a brother in anger. Cf. also *P. Cummeani* VIII 3, VIII 7; *P. Bigotianum* III 5 2, VIII 1, VIII 2 1.

32 Cf. *P. Cummeani* IV 9; *P. Vinniani* 9; *P. Columbani* B 21.

33 *P. Cummeani* IV 9, ed. and trans. Bieler: 120–21: *Qui per rixam ictu debilem uel deformem hominem reddit, inpensa in medicos curat et maculae pretium et opus eius donec sanetur restituat et dimedium anni peniteat.*

34 Cf. *P. Columbani* B 14. For background on the *pretium pudicitiae* mentioned here cf. Law of Æthelberht ch. 31, *Leges Burgundionum* (Liber Constitutionum) XXXVI, and *Codex Theodosianus* 9 42 1. Cf.

male sinner was to either marry her or pay her legal guardians a fee to compensate them for the humiliation (*pretium humiliationes*).[35] The punishment for fornication with unfree dependents consisted of either the obligation to sell them or to set them free.[36]

In the case of theft, the penitentials usually demanded the restitution of the stolen goods or the value thereof.[37] Sometimes the canons required the two- or even fourfold restitution.[38]

Compensation payments could also reduce the length of the prescribed penance.[39] Conversely – and this is, where it gets really interesting – the penitentials provide information on what happened if the sinners were not able to meet the compensation claims. As an alternative to payments or restitution, they allowed for an extension of the fast.[40] A provision in the penitential of Cummean provides an example for this possibility in the context of the provision on bodily harm discussed above (p. 234). While canon nine imposes *satisfactio* for this offence, canon ten states that if the penitent 'has not the wherewithal to make restitution for these things, he shall do penance for one year.'[41] In cases where the Church itself was the injured party, it may have advanced the compensation. In other cases, the church may have paid the compensation on behalf of the penitents in order to settle the conflict. It is possible that this resulted in penitents being indebted to pay alms or to work in the Church's service. At least this seems to be suggested, for instance, in a canon dealing with theft in the penitential of Columbanus:

> If any layman has committed theft, that is, has stolen an ox or a horse or a sheep or any beast of his neighbour's, if he has done it once or twice, let him first restore to his neighbour the loss which he has caused, and let him do penance for three forty-day periods on bread and water;

Meens, "Wergild": 221–22; Theodore J. Rivers, "Adultery in Early Anglo-Saxon Society: Æthelberht 31 in Comparison with Continental Germanic Law," *Anglo-Saxon England* 20 (1991): 19–25.

35 Cf. *P. Columbani* B 16; Meens, "Wergild": 221–22.

36 Cf. *P. Vinniani* 39, 40; *P. Theodori* (U) XIV 12. The setting free of a slave is also required as part of the penitential sanctions for perjury, cf. *P. Vinniani* 22.

37 Cf. *P. Columbani* A 8, B 7.

38 Cf. *P. Vinniani* 25; *P. Theodori* (U) III 2.

39 Cf. *P. Bigotianum* IV 1 2; *P. Theodori* (U) III 3, IV 1, for the possibility to reduce penance through payments. *P. Cummeani* II 5 offers the possibility to undergo a severer form of penance in order to prepare for monastic vows after sinning. Furthermore, the penitentials frequently offer alternative punishments, cf. *P. Ambrosianum* I 4 (fasting *or* almsgiving for drinking too much); *P. Bigotianum* IV 1 2 (laying down arms and serving god *or* penance for seven years for killing a cleric or monk); *P. Theodori* (U) IV 4 (penance *or* laying down arms for killing someone), and VIII 11 (flogging *or* 20 days penance for boys who defiled themselves).

40 *P. Columbani* B 7, B 19; *P. Ambrosianum* II 2, III 3, IV 6; *P. Cummeani* IV 10; cf. *P. Bigotianum* III 2 1 and IV 3 1.

41 *P. Cummeani* IV 10, ed. and trans. Bieler: 120–21: *Si uero non habeat unde restituat haec, .i. annum peniteat.*

but if he has made a practice of stealing often, and cannot make restitution, let him do penance for a year and three forty-day periods, and further undertake not to repeat it, and thus let him communicate at Easter of the second year, that is, after two years, on condition that, out of his own labour, he first gives alms to the poor and a meal to the priest who adjudged his penance, and so let the guilt of his evil habit be forgiven.[42]

That *satisfactio* could take the form of lasting financial and / or labour obligations is also indicated in the sanctions imposed for bodily harm or homicide in the *Paenitentiale Columbani* and several Frankish penitentials. For instance, the penitential of Columbanus decreed that homicides should undergo penance in exile for three years and thereafter render their services to the relatives of their victim:

Whoever has committed murder, that is, has killed his neighbour, let him do penance three years on bread and water as an unarmed exile, and after three years let him return to his own, rendering the compensation of filial piety and duty to the relatives of the slain, and thus after (making) satisfaction let him be restored to the altar at the discretion of the priest.[43]

Similarly, other provisions in the Irish penitentials ordered sinners to offer themselves (i.e., their services) in place of their deceased or injured victims.[44] Provisions like these suggest that at least in some communities the penance for certain offences could entail lasting obligations to the injured party in the form of bonded labour.

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42 *P. Columbani* B 19, ed. and trans. Bieler: 102–5: *Si quis laicus furtum fecerit, id est bouem aut aequum aut ouem aut aliquod animal proximi sui furauerit, si semel aut bis fecit, reddat primum proximo suo dampnum quod fecit et tribus xlmis in pane et aqua peniteat; si autem saepe furtum facere consueuit et reddere non potuerit, anno et .iii. xlmis peniteat et deinceps nequaquam facere promittat et sic in Pascha alterius anni communicet, id est post duos annos data tamen ante pauperibus de suo labore helemosina et sacerdoti paenitentiam iudicanti epula et ita abremitatur illi malae consuetudinis culpa.* Cf. also *P. Hubertense* 7 according to which the penance for *maleficium* included constant almsgiving, and *P. Theodori* (U) XVII 5, which I discuss below, p. 239.
43 *P. Columbani* B 13, ed. and trans. Bieler, *Irish Penitentials*: 102–3: *Quicunque fecerit homicidium, id est, proximum suum occiderit, iii annis inermis exsul in pane et aqua paeniteat, et post iii annos reuertatur in sua reddens uicem parentibus occisi pietatis et officii et sic post satisfactionem iudicio sacerdotis iungatur altario.* On this provision cf. Rob Meens, "Penance, Shame, and Honour in the Early Middle Ages," in *Shame between Punishment and Penance: The Social Usages of Shame in the Middle Ages and Early Modern Times*, eds. Bénédicte Sère and Jörg Wettlaufer, Micrologus' library 54 (Florence: Sismel, 2013): 90–91. This canon specifically refers to lay people committing homicide. The Frankish penitentials only include *P. Columbani* B 1, which refers to clerics committing the same crime. Only three of the Frankish penitentials (*P. Oxoniense, P. Floriacense*, and *P. Hubertense*) add *laicus* to their version of the canon and – at the same time – omit the demand for the sanctions of exile and *satisfactio.*
44 Cf. *P. Vinniani* 23; *P. Columbani* B 1, B 21; *P. Cummeani* IV 9.

3 Penal Enslavement and Bonded Labour

As indicated above, the late antique and early medieval penitentials also occasionally assign sanctions that suggest a more direct involvement of ecclesiastical institutions with penal enslavement and bonded labour. In addition to ambiguous forms of *satisfactio*, the penitentials prescribe enslavement and forced (monastic) service to God as sanctions for certain sins.

3.1 Penal Enslavement

For example, severe forms of fornication, that is sexual trespasses such as adultery, were occasionally punished with enslavement or comparable dependency relations. The Irish penitential of Finnian, for example, ordered adulterous women to 'serve [their] husband in the place of a slave'.[45] While the relevant canon in the *Paenitentiale Vinniani* is indeed the only extant penitential provision which recommends the degradation of an adulterous wife to the bottom of the social order within her own household, other penitential provisions and contemporary laws appear to confirm the practice of sanctioning certain crimes with penal enslavement. The Anglo-Saxon penitential of Theodore, for instance, lists fornication among the offences sanctioned with enslavement in a provision concerned with the right to remarry. It states that

> [i]f a husband makes himself a slave through theft or fornication or any sin, the wife, if she has not been married before, has the right to take another husband after a year. This is not permitted to one who has been twice married.[46]

While this canon does not order penal enslavement itself, it provides guidance on the remarriage of women whose spouses had been enslaved for committing an offence.

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45 *P. Vinniani* 43–44 (S), ed. and trans. Bieler, *Irish Penitentials*: 90–91: *Si alicuius uxor fornicata fuerit et habitet cum alio uiro, non oportet adducere uxorem aliam quandiu fuerit uxor eius uiua (44) prima, si forte conuersa fuerit ad penitentiam, et decet suscipi eam, si satis ac libenter expeterit; sed dotem ei non dabit et seruiet uiro suo priori quandiu fuerit in corpore: uicem serui uel ancille expleat in omni pietate atque subiectione.* '(43) If a man's wife commits fornication and cohabits with another man, he ought not to take another wife while his first wife is alive, (44) in the hope that, perchance, she be converted to penance, and it is becoming to take her back, if she fully and freely seeks this; but [she shall not give dowry to him OR he shall not give dowry to her.], and shall [serve] her former husband as long as he is in the body: she shall make amends in the place of a male(?) or female slave, in all loyalty and subjection.' My alterations to the translation in [].
46 *P. Theodori* (U) XXVII 9, ed. Elliot, *Paenitentiale Umbrense*: 28: *Maritus si seipsum in furtu aut fornicatione seruum facit uel quocumque peccato, mulier, si prius non habuit coniugium, habet potestatem post annum alterum accipere uirum. Digamo non licet.* Translation by John T. McNeill and Helena M. Gamer, *Medieval Handbooks of Penance*: 209.

The fact that such cases required their own legislation suggests a certain frequency of the practice of condemning sinners or criminals to slavery.

One might argue, however, that so far, we have not seen any evidence that the Church ever enforced penal enslavement itself or that it was directly involved with the supervision of penally enslaved people. Rather, in the examples presented, the injured parties, i.e., the betrayed husband or the grieving relatives, were envisioned to enforce the submission of the offenders – even if they did so with the explicit sanction of the Church (and the law). The Anglo-Saxon penitential of Theodore, however, contains several provisions which indicate a more direct involvement of the Church with the practice of penal enslavement and related punitive measures.[47] For example, *P. Theodori* (U) III 1 sanctions the abduction of monks by laypeople with either "human servitude" (*humanum seruitium*) or forced monasticism.[48]

This provision indicates that under circumstances in which the Church's jurisdiction was indisputable, because it was itself the offended party, it would not only decree but possibly also enforce the appropriate sanctions. The noteworthy alternative between "human slavery" or entering a monastery further suggests a certain leeway for the priests adjudging penance that allowed them to take into account the circumstances of the offence such as the social status of the offender and the readiness of a monastery in the vicinity to take in another criminal.[49]

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47 *P. Theodori* (U) XXVIII, ed. Elliot, *Paenitentiale Umbrense*: 30–31, for instance, includes a section with the heading *De Seruis et Ancillis*. This section contains a collection of provisions regulating changes in legal status of people either entering or exiting slavery, i.e., through birth, marriage or to debt.

48 *P. Theodori* (U) III 1, ed. Elliot, *Paenitentiale Umbrense*: 7: *Si quis laicus de monasterio monachum duxerit furtim, aut intret in monasterium deo seruire aut humanum subeat seruitium*. Translation McNeill and Gamer, *Medieval Handbooks of Penance*: 186: 'If any layman carries off a monk from the monastery by stealth, he shall either enter a monastery to serve God or subject himself to human servitude.'

49 On the alternative between monastic service and human servitude, cf. Julia Winnebeck, "Slaves and Slavery in the Late Antique and Early Medieval Penitentials," *Vigiliae Christianae* 75 (2021): 142. The story of Libran in the *Vita Columbae* offers an interesting example of a sinner who, after having committed a crime, first fell into debt bondage to a wealthy secular man who had paid the compensation he owed for his crime and then escaped to choose "serving God" as alternative punishment. It appears as though the Church or Libran himself still had to compensate the secular lord for his loss. Cf. Adomnán, *Vita Columbae* II, 39, ed. and trans. Marjorie O. Anderson and Alan O. Anderson, *Life of Columba*, Oxford Medieval Texts (Oxford: Oxford University Press, 1991): 154–63. Other translation by Richard Sharpe, *Adomnán of Iona: Life of St. Columba* (London: Penguin, 1995). Cf. on this story, Meens, "Penance, Shame, and Honour": 91–94. On the duty of monasteries to take in penitents, cf. *P. Vinniani* 33, ed. Bieler, *Irish Penitentials*: 86: *Et basilicis sanctorum ministrandum est et ex facultatibus nostris omnibus qui sunt in necessitatibus constituti conpatiendum est nobis et in domibus nostris suscipiendi sunt nobis peregrini, sicut preceptum est a Domino;* [. . .]. Translation and interpretation Pamela O'Neill, "Peregrinatio: Punishment and Exile in the Early Gaelic Church," *Australian Celtic Journal* 9 (2010): 35: '[And] the churches of the saints are to be served and all who are in need are to be supported by us according to our ability; and exiles (*peregrini*) are to be received by us into our houses, as is commanded by the Lord.'

Finally, another provision in the penitential of Theodore offers a hint that in addition to acknowledging, decreeing, and possibly enforcing penal enslavement for certain offences, ecclesiastical institutions may have acquired criminals as slaves by paying or foregoing whatever compensation they owed. To this effect, *P. Theodori* (U) XVII 5 declared that '[a] bishop or an abbot may keep a criminal as a slave if he [sc. the criminal] has not the means of redeeming himself.'[50]

This provision should be read against the backdrop of penitential provisions assigning *satisfactio* (see above 2.2) and understood in light of the fact that most legal codes of the Post-Roman era prescribed compensation payments rather than corporal punishments for the majority of offences.[51] These compensations were, in all likelihood, difficult to pay for most individuals and, therefore, provided a slippery slope into debt bondage.[52]

3.2 Forced "Service to God"

A second group of canons which indicates that sinners or criminals were inflicted with lasting obligations to individuals or ecclesiastical institutions via the system of penance are provisions that assign "forced monasticism" or nonspecific services to God as a punishment. Like penal enslavement, these punishments are exclusively awarded for grave offences such as theft, abduction, perjury, treason, and manslaughter. The severity of those sins probably required the penitent to be removed from their current social community for the duration of their penance.[53] As is still fairly palpable in some of these provisions, the punishments of forced monasticism and "service to God" probably developed out of the more traditional punishment of exile which the earlier penitentials also prescribed from time to time.[54] The Irish peniten-

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50 *P. Theodori* (U) XVII 5, ed. Elliot, *Paenitentiale Umbrense*: 20: *Episcopus et abbas hominem sceleratum servum possunt habere si pretium redimendi non habet*. Translation McNeill and Gamer, *Medieval Handbooks of Penance*: 200.

51 Cf. Hermann Nehlsen, "Entstehung des öffentlichen Strafrechts bei den germanischen Stämmen," in *Gerichtsglauben-Vorträge: Freiburger Festkolloquium zum fünfundsiebzigsten Geburtstag von Hans Thieme*, ed. Karl Kroeschell (Sigmaringen: Thorbecke, 1983): 12.

52 Cf. Alice Rio, "Penal Enslavement in the Early Middle Age," in *Global Convict Labour*, eds. Christian De Vito and Alex Lichtenstein, Studies in Global History 19 (Leiden: Brill, 2015): 90–91.

53 Cf. Meens, "Wergild": 223.

54 For evidence on the punishment of exile in the penitentials, cf. *P. Vinniani* 24; *P. Columbani* B 1, B 2; *P. Cummeani* II 7, II 17, IV 6; *P. Bigotianum* IV 3 4; *P. Theodori* (U) II 16. For the 'Irish tradition of becoming an "exile for God"' (Isabel Moreira, *Heaven's Purge: Purgatory in Late Antiquity* [Oxford: Oxford University Press, 2010]: 115–16), cf. Martin Leigh Harrison, "Penitential Pilgrimage," in *Encyclopedia of Medieval Pilgrimage*, eds. Larissa J. Taylor et al. (Leiden: Brill, 2010): n.p., http://dx.doi.org/10.1163/2213-2139_emp_SIM_00399; O'Neill, "Peregrinatio": 34. On the origins and the development of the punishment of monastic confinement, cf. Guy Geltner, "Detrusio, Penal Cloistering in the Middle

tial of Cummean, for instance, sanctioned repeated stealing with 'the yoke of exile under another abbot' (*iugi exilio sub alio abbate*).[55] While this canon addressed monks, who were simply moved from one monastery to another, other provisions inform us, that the same punishment could be applied to laypeople, too.[56] As shown above, the abduction of monks was sanctioned with either "human servitude" or forced service to God in a monastery according to the penitential of Theodore.[57] The same penitential also condemned repeat offenders to life in a monastery. The relevant canon ordered that '[h]e who has committed many evil deeds, that is, murder, adultery with a woman and with a beast, and theft, shall go into a monastery and do penance until his death.'[58]

The Irish penitential of Columbanus prescribed lifelong penance in a monastery for cases of perjury and further demanded that these penitents had their heads shaven – whether as a sign of their penitent status or as part of their forced consecration (*Mönchung*) remains ambiguous.[59] While all of the eight Frankish penitentials omitted this obscure punishment from their version of Columbanus' provision, it later reappeared in Halitgar's so-called *Paenitentiale Romanum* and another related penitential which is preserved in a ninth century manuscript in Düsseldorf. This provision stated that '[i]f any layman has perjured himself out of greed, he shall sell all his things, and give to the poor, and receive the tonsure [shall be shaved] in a monastery: and there he shall serve God until the day of his death.'[60]

While not directly condemning the sinners to monastic detention or service, the prescribed penances of several other canons suggest that penitents were subjected to a similar fate and considered dependents of the Church. The *Paenitentiale Theodori*

Ages," *Revue Bénédictine* 118, no. 1 (2008): 100; Julia Hillner, *Prison, Punishment and Penance in Late Antiquity* (Cambridge: Cambridge University Press, 2015): 281–341.

55 *P. Cummeani* I 12, ed. Bieler, *Irish Penitentials*: 112. Translation in the text according to McNeill and Gamer, *Medieval Handbooks of Penance*: 102. Cf. *P. Bigotianum* I 4.

56 Other known sources witnessing to monastic confinement or forced monasticism as a punishment, namely the council records, almost exclusively prescribe it for clerics. On this cf. Harold E. Mawdsley, "Exile in the Post-Roman Successor States 439–c.650" (PhD diss., University of Sheffield, 2018) https://www.academia.edu/45084297/Exile_in_the_Post_Roman_Successor_States_439_c_650 [accessed 15.10.2024].

57 *P. Theodori* (U) III 1.

58 *P. Theodori* (U) VII 1, ed. Elliot, *Paenitentiale Umbrense*: 11: *Qui multa mala fecerit – id est homicidium, adulterium cum muliere et cum pecode, et furtum – eat in monasterium et peniteat usque ad mortem*. Translation McNeill and Gamer, *Medieval Handbooks of Penance*: 190.

59 *P. Columbani* B 20, ed. and trans. Bieler, *Irish Penitentials*: 104–5: *Si quis laicus periuauerit, si per cupiditatem hoc fecerit, totas res suas uendat et donet pauperibus et conuertatur ex integro ad Dominum et tundatur omni dimisso saeculo et usque ad mortem seruiat Deo in monasterio*; [...].

60 Manuscript Collection, University and State Library Düsseldorf, Ms B 113, 79 v: *Si quis laicus periurauerit per cupiditate, totas res suas vendat, et det pauberibus, et tond[e]atur in monasterio: et ibi d[e]o seruiat usque in diem exitus sui.* 'Wenn irgendein Laie aus Gier einen falschen Schwur geleistet hat, soll er seinen ganzen Besitz verkaufen und den Armen geben und im Kloster die Tonsur empfangen und dort Gott dienen bis zum Tag seines Todes.' Cf. Hermann J. Schmitz, *Die Bußbücher und die Bußdisciplin der Kirche. Nach handschriftlichen Quellen dargestellt* (Mainz: Kirchheim, 1883): 465–89.

(U) and the Bigotian penitential, for example, decreed that sinners who had killed members of the clergy were to give up their arms and serve God (*arma relinquere et Deo servire*).[61] The penitential of Cummean featured the curious addition that such penitents were considered 'dead to the world' (*mortuus mundo*) during their lifelong service to God which could either be interpreted as a reference to the remoteness of their service (e.g. in a monastery) or their social status as dependents: 'He who commits murder through nursing hatred in his mind, shall [after having given up his arms, live unto God being dead to the world until (his own) death].'[62] Another canon in this penitential awards the same sanction, i.e. nonspecific service to God as *mortuus mundo*, for treason.[63]

Overall, the punishments of penal enslavement and monastic exile or forced service to the Church are fairly well attested as sanctions for severe crimes within penitential texts. In assigning these curious measures, the penitentials bear witness to a general shift within the penal system from classic forms of exile to forms of (monastic) confinement and penal servitude. In keeping even hardened criminals and sinners alive and under the supervision of Church representatives, these punishments served the core religious purpose of late antique and early medieval penance to redeem as many souls as possible while also providing a steady stream of dependent labourers for the Church.

4 Conclusion: Serving God – Serving the Church

The character of the penitential sanctions and the available means to enforce them show that late antique and early medieval penance can and should be understood as a fundamentally social institution. This is not to say, that it did not serve a deeply religious and spiritual purpose at the same time. But if one looks at penance from the perspective of social history, as I have done in this chapter, it appears rather obvious that the earliest penitential handbooks primarily aimed to uphold a certain social and ethical order and to settle conflicts within the local Christian community.[64] Particu-

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61 *P. Theodori* (U) IV 5a, ed. Elliot, *Paenitentiale Umbrense*: 8: *Si quis occiderit monachum uel clericum: arma relinquat et deo seruiat, uel VII annos peniteat – in iudicio episcopi est.* Translation by McNeill and Gamer, *Medieval Handbooks of Penance*: 187: 'If one slays a monk or a cleric, he shall lay aside his arms and serve God, or he shall do penance for seven years. He is in the judgment of his bishop.' Cf. Big IV 1 2. On the giving up of arms as part of the penitential sanction of exile, cf. also *P. Columbani* B 13 and B 20. On *arma relinquere* as a punishment in connection with forced exile inside or outside a monastery, cf. Lotte Kéry, *Gottesfurcht und irdische Strafe. Der Beitrag des mittelalterlichen Kirchenrechts zur Entstehung des öffentlichen Strafrechts, Konflikt, Verbrechen und Sanktion in der Gesellschaft Alteuropas* (Cologne: Böhlau, 2006): 128; Raymund Kottje, "'Buße oder Strafe?' Zur 'iustitia' in den 'libri penitentiales,'" *Al giustizia nell'alto medioevo (Secoli V–VIII)* 1 (1995): 454.
62 *P. Cummeani* IV 5, ed. and trans. Bieler, *Irish penitentials*: 118–19; my alterations to the translation in []: *Qui homicidium odii meditatione facit, relictis armis usque ad mortem mortuus mundo uiuat Deo*.
63 Cf. *P. Cummeani* IX 13.
64 Meens, "Wergild": 222.

larly the Irish penitentials and the Anglo-Saxon penitential of Theodore suggest a historical context in which penitentials were used in place of – rather than in addition to – other legal norms. Much like monastic rules (to which they bare significant similarities), the majority of their provisions postulate an environment, where lay people, too, were among the dependents of the ecclesiastical institution awarding penance – if not in an economical sense, then with respect to social conduct and legal proceedings.[65] In comparison, the Frankish penitentials contain barely any evidence pertaining to the social or legal purpose of penance. In fact, their compilers seem to have eliminated most references to punishments other than fasting from the Irish material they included.[66] The lack of direct evidence for penance taking the form of sanctions other than fasting might indicate a different *Sitz im Leben* of the Frankish penitentials compared to those of the Irish and Anglo-Saxon tradition: Perhaps, they were compiled and applied in contexts where ecclesiastical institutions did not have extensive legal authority and, accordingly, punishments of a more secular character could not be enforced.[67]

Regardless of whether the penitential punishments, including the assignment of extended fasts, are understood as additional or the sole sanctions for the listed offences, their enforcement obviously required a significant degree of authority or power on the part of the ecclesiastical body awarding penance and the support of secular authorities. This is of course especially true for sanctions that entailed the permanent or temporary entry of individuals into dependency relations. Even though these punishments cannot exactly be regarded as an invention of the Christian Church, the imposition of slavery, bonded labour, and monastic confinement or service as means to sanction certain sins or crimes was certainly promoted within the system of penance. More importantly, the sources indicate that ecclesiastical institutions may have functioned as an administrative channel for these practices: Perhaps, local priests in charge of penance took on the role of modern-day notaries. Exchanges of workforce for debt resulting from civil or criminal proceedings were processed by and through the Church which not only had the financial means to pay out compensations but also the authority and the resources to draw up official documents to testify to these agreements and the capacities to hold

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65 On the lay people addressed in the Irish and anglo-saxon penitentials, cf. Meens, "Exil, Buße und sozialer Tod": 119. On the question who had access to penance, cf. Colmán Etchingham, "The Early Irish Church: Some Observance on Pastoral Care and Dues", *Ériu* 42 (1991): 118; Colmán Etchingham, Church Organisation in Ireland, a.d. 650 to 1000 (Maynooth: Laigin Publications, 1999): 290–318; Winnebeck, "Moving Penance": 149–153.

66 The only exceptions appear to be the canons dealing with homicide. However, only the oldest of the Frankish penitentials, the *P. Bobbiense*, preserves the demand for compensation in case of murder. By tracing the adoption of this canon throughout the later tripartite penitentials, Meens observes a 'tendency to leave out the requirement to compensate the offended party' (Meens, "Wergild": 225).

67 The extant manuscripts of the Frankish penitentials do not support the hypothesis that most priests had access to more than one penitential or penitentials from different traditions. Thus, it seems more likely that the elimination of additional sanctions was due to the context of application.

and employ dependents. Unfortunately, the penitentials themselves do not provide much information on the practical implementation of penitential sanctions and neither do historiographic sources. Further research into the so-called *formulae*, which are model drafts of legal agreements between different parties, might offer more details on the process of assigning penal enslavement and bonded labour as punishments for sin.[68]

Regardless of the uncertainty regarding the practical application of penitential rulings, we know for certain that the Church, or rather its higher representatives, ruled over several groups of dependents. Aside from the clergy these included slaves the ecclesiastical institutions had gotten hold of by way of donation, inheritance or as part of the properties it acquired.[69] The precise character of their "service" to the Church – in a monastery or elsewhere – remains ambiguous. We have no evidence that the social or legal status of slaves was altered on entry into the service of the Church. Neither do the provisions which inform us on the practice of forced monasticism or penal service to God indicate that the individuals subjected to these punishments were necessarily turned into "proper" monks and nuns. The assessment of the circumstances and living conditions of Church dependents, much like the assessment of any type of dependency, therefore needs to take into account other factors than merely the dependents' legal status as free or enslaved or their association with a certain institution like the Church. These factors may be, for example the dependents' gender, age, and – last but not least – the type of work they were assigned.[70] While this evidence is of course sparse and often rather hidden, put together, it should provide a better understanding of the Church's handling of slavery and other dependency relations. For instance, the sources indicate that slaves did indeed work on monastic premises in all sorts of different functions, for example as personal servants or simply in the function of rural labourers.[71] One particularly interesting canon in the records

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68 Beta versions of editions and German translations of these collections can be accessed via the "Formulae – Litterae – Chartae"-project of the Akademie der Wissenschaften in Hamburg in cooperation with the university of Hamburg: https://werkstatt.formulae.uni-hamburg.de/collections/formulae_col lection [accessed 30.08.2023].

69 Cf. e.g. John Chapman, *St. Benedict and the Sixth Century* (London: Sheed & Ward, 1929): 147–72, esp. 152–54; Jens-Uwe Krause, *Geschichte der Spätantike: Eine Einführung*, Studium Geschichte, 4761 (Tübingen: A. Francke, 2018): 291.

70 Cf. Rio, *Slavery After Rome*: 246–47.

71 These references can be found in several monastic rules, such as the *Regula Monachorum* by Isidor of Sevilla or the *Regula Magistri*, and in contemporary hagiography, for example the *Vitae Caesarii episcopi Arelatensis libri duo*. Cf. Heike Grieser, "Antike Sklaverei und entstehendes christliches Mönchtum: Facetten eines spannungsreichen Verhältnisses," in *Theologie und Sklaverei: Von der Antike bis in die frühe Neuzeit*, eds. Heike Grieser and Nicole Priesching (Hildesheim: Georg Olms, 2016): 62–63, 72–73; Alexandra Hasse-Ungeheuer, "'. . . weil die göttliche Gnade alle gleich aufnimmt' (Novellae Iustiniani 5, 2): Sklaven werden zu Mönchen. Der Umgang von Kirche und Staat mit der 'Klosterflucht' von Sklaven in der Spätantike," in *Sklaverei und Zwangsarbeit zwischen Akzeptanz und Widerstand*,

of the council of Epao sanctioned the sale of slaves for the simple reason that it would be unfair on monks to perform hard agricultural labour while slaves enjoyed leisure time.[72] Furthermore, there are several hints in the extant sources to slaves living and working in the households of members of the clergy, most notably in conciliar legislation concerned with the presence of female slaves and the temptation they provided.[73] The above-mentioned examples suggest, that the reality of "serving God" or, rather, the Church may not have differed much at all from dependency relations outside the ecclesiastical realm. Instead, the experience of Church dependents like that of other dependents was down to a range of different factors, the careful consideration of which should produce some interesting findings in the future.

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ed. Elisabeth Herrmann-Otto, Sklaverei – Knechtschaft – Zwangsarbeit 8 (Hildesheim: Georg Olms, 2011): 149–50.

[72] *C. Epaonense* (517), cn. 8, ed. de Clercq, *Concilia Galliae:* 26: *Mancipia uero monachis donata ab abbate non leceat manumitti; iniustum enim potamus, ut monachis cotidianum rorale opus facientebus serui eorum libertatis otio potiantur.* 'Slaves who have been donated to the monks may not be freed by the abbot; for we consider it unjust that while monks perform the daily rural labour their slaves have the leisure of freedom.' Cf. *C. Agathense* 9 (56), ed. Charles Munier, *Concilia Galliae A. 314–A. 506*, Corpus Christianorum Series Latina 148 (Turnhout: Brepols, 1963): 226. On this peculiar provision, cf. Joseph Limmer, *Konzilien und Synoden im spätantiken Gallien von 314 bis 696 nach Christi Geburt: Teil 2, Zusammenschau wichtiger Themenkreise*, Veröffentlichungen des Internationalen Forschungszentrums für Grundfragen der Wissenschaften Salzburg 10 (Frankfurt am Main: Lang, 2004): 178; Sommar, *Slaves of the Churches*: 375.

[73] Cf. e.g., *C. Arelatense* II (442–506), cn. 4; *C. Agathense* (506), cn. 11 and 28; *C. Claremontanum seu Aruernense* (535), cn. 16; C. *Aspasii* (551), cn. 2.

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