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Адреса на ЗИРМ: Григор Прличев, бр.3, 1000 Скопје, Република Македонија
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Andrew P. ROACH
University of Glasgow

Maja ANGELOVSKA-PANOVA
Institute of National History - Skopje

PUNISHMENT OF HERETICS: COMPARISONS AND CONTRASTS BETWEEN WESTERN AND EASTERN CHRISTIANITY IN THE MIDDLE AGES*

There is much to be learned from the way in which a society seeks to limit the choices of its members, particularly in the contentious field of religion. Medieval Europe is a good case in point, because at first sight the ideological blanket of "Christendom" thrown over the continent disguises both the diversity of belief and the responses to that diversity. Theoretically the medieval Christian Church was a monopoly based on exclusive interpretation of the Bible through the works of the Church fathers and the legislation of Councils. On the ground the Church was a patchwork of competing monasteries, parish churches and shrines, while the defining moment which seemed to guarantee its monopolistic status, its adoption as state religion by the Roman empire had evolved into a number of fluctuating relationships with a variety of secular entities from city communes to kings and emperors. Given that there has been much study of the treatment of religious dissidents in the West, stemming from its eventual institutionalization as "the Inquisition", there has been surprisingly little comparison of the punishment of heretics across the continent, all the more so considering that the divide between "Catholic" and "Orthodox" was by no means
decisive for much of the period and that both confessions drew from a common heritage. 1

That heritage was both religious and legal: the Church in late Antiquity faced significant challenges from Manicheans and Donatists and against them was assembled a body of Roman law dependent on the codes issued by Theodosius (408-50) and Justinian (527-65). 2 It was only at this point that eastern and western traditions diverged. Whereas the relatively strong centralized government in Constantinople continued to enforce a degree of religious uniformity, notably during the ebbs and flows of the Iconoclast controversy, in the West the relative decline of centralized institutions allowed a degree of local autonomy. In Byzantium and the West however, there were few signs of organized heresy possibly because in both regions the Church remained relatively distant from the laity. This situation changed between the tenth and fourteenth centuries with the emergence of the Bogomil heresy in the East and the Cathars and other dissidents in the West. The aim of this article is a comparison of the ways in which diversity was turned into deviance and how the material and spiritual consequences of individuals’ and communities’ religious choices were better defined. Two rather different models of religious authority emerge in the process.

The first relevant source on punishing heretics within the period is the letter by Patriarch Theophylact to Constantine (933-556) sent to the Bulgarian Tsar Peter (977-969). The letter contains data pertaining to the specific request made by Tsar Peter regarding how to treat the heretics, which scholars have usually identified as Bogomils, when punishing them. Patriarch Theophylact lists three categories to be used in determining the appropriate treatment for repentant heretics: firstly, those who taught doctrines alien to those of the church, if they repented could be re baptized in accordance with Canon 19 of the Council of Nicaea (325). 3 Secondly, those who were led astray by the former and were seduced, not by weakness, but by their own simplicity and guilelessness, were to be confirmed like children. Those in the third rank, who neither taught nor learnt nor participated, but in ignorance had unsuspectingly united with the heretics because they appeared ascetics and good and religious men, and who perhaps had spent some time with them to hear more completely about the heresy, were to be taken back into the Church after “separating” (ἀπαθέωμεν) them for four months to ensure their conversion was genuine, which perhaps implies a formal penitential procedure. 4 Taken as a whole, two features clearly stand out from Theophylact’s advice: firstly, he implies that a significant number of the heretics are from within the Church; priests who taught heretical doctrine are to lose their status, but other priests who showed an interest in the heretics are not. Secondly, Theophylact distinguished what Peter could do, from what he ought to do and in doing so revealed much about the initial Byzantine mindset in dealing with heresy. The patriarch stated that the laws of a Christian state prescribed death for the unrepentant, but that it was not right, nor fitting for the Church’s reputation, nor for the patriarch’s that they should be enforced and that the chance of repentance should be given. As Wazo of Ljubac was to do in the West a century later (see below), he advocated spiritual penalties.

The chief of these was the anathema, the most severe form of excommunication, but not irreversible. Theophylact tempered his punishment to the situation. Even more importantly from a Byzantine point of view, Bulgaria was distant and the heretics described had low social status and presented no serious danger for the Empire: Theophylact could afford a relaxed stance in accordance with the current

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1 The authors wish to thank Dr. Jonathan Shepherd, Prof. Dr. Antonio Rigo and Dr. Stuart Afflalo for their helpful suggestions and comments on earlier drafts of this article.


3 For measures against heresy in late Antiquity see Elizabeth A. Clark, Reading Homoeans: Asceticism and Scripture in Early Christianity (Princeton University Press, 1999); Avril Cameron, “The violence of orthodoxy” in Heresy and Identity in Late Antiquity, ed. Edward, Irenicus and Holger M. Zellenia (Tübingen: Mohr Siebeck, 2008), 112.


policy of oikonomia. The anathema as a form of punishment was more spiritual in character and it was intended to have a psychological and didactic influence on the individual. It was used in both East and West: Theophylact’s words find echoes in canon 3 of the Fourth Lateran Council of 1215. But whereas in the East it was left as a warning to the recipient that they were beyond the law and that potentially any coercive action from any source was licit, in the West it was increasingly the prelude to a defined procedure.

Matters were different when heresy was identified closer to home, as it was in the reign of Alexios Komnenos (1081-1118). Two illustrative examples are the case of John Italos, a leading intellectual and founder of the study of dialectics and history of philosophy in Constantinople who believed in metempsychosis, but irrefutable icons, and the case of Patriarch Eustathios Garidas (1081-84), who was intrigued at Italos’s philosophical theology and exegesis. Italos’s teaching was dismantled at the synod of 1082 and Eustathios was forced to resign two years later when a mob arrived at the Church of Hagia Sophia. The emperor took a personal interest in the prosecution of the first by appointing his brother to investigate and may have also been behind the fall of the second who was seen as too close to his political rivals. These early actions may have been as much about announcing a change of political climate as about eliminating threats to the faith. A far more potent threat was identified in the early years of the twelfth century. Anna Komnena stated that “word of Bogomilism was spreading everywhere and the evil like a fire destroyed many souls.” The monk Basil, who had “2 students he calls Apostles” was the dominant personality in spreading the “Bogomil atheism.” It was no coincidence that Alexios I Komnenos put aside a great deal of his

8 Angelovic, “Power and Subversion”.

concerns in the East and West, and directed his attention towards spiritual concerns. As Jonathan Shepard has pointed out, “The role of guardian of religious orthodoxy was axiomatic of any basilios. Yet Alexios went to extraordinary lengths to establish a personal reputation for himself as the castigator of religious error.”

Alexios’s strategy involved the pretense that he was inclining to heresy and eventually persuading Basil to explain his fall teaching. It is not clear whether Alexios’s role was accompanied by repressive measures with the aim of identifying other leaders and annihilating the heresies completely. It is safe to say only that the actions undertaken by Alexios Komnenos were considered part of his imperial duty to protect his subjects from religious deviance. Alexios’s tactics which lacked recent precedent in Byzantine experience do suggest that he was influenced by older penalties laid down for treason. Anna Komnena stresses that Alexios was dealing with the enemy within by reference to Basil’s influence “in the greatest houses” and in some ways there are similarities with the treatment of Arnold of Brescia in Rome by Adrian IV some fifty years later, not least because in both cases the heresiarch was personally known to the emperor and pope respectively. In both cases the secular and religious arms of government moved in close cooperation to deal with an intimate enemy. Anna relates how Alexios called an assembly of leading secular and religious officials to condemn Basil’s teaching and he then employed both burning and imprisonment as a penalty for Basil and his supporters. It would be useful to know more details about the “prison of maximum security” in which the heretics languished for a long time until their death, to gauge Byzantine commitment to long term punitive imprisonment which does seem to prefigure inquisition practice in the West. Before Alexios’s final decision to send them to the stake, he offered Basil and the rest of the heretics the chance to convert to Orthodoxy. As the Alexiad put it: “Today two pyres shall be built, and by one a cross will be fixed in the ground. Then you are given a choice. All those who want to die today in the Christian faith should separate themselves from the others and approach the pyre with the cross, while those who adhere to the Bogomil
hersy shall be thrown on the other. It is better for those who are Christians to die than to live and be persecuted as if they were Bogomils, and outrage the consciences of many. Go then, and let each of you approach which pyre he chooses.5

Basil displayed conspicuous bravery and spiritual strength, a man "ready to step into fire and die a thousand times over, and not renounce his faith". Despite her antagonism towards Bogomilism, Anna Komnena could not remain indifferent to Basil's heroism. "If," she wrote, "could not be made to waver, he was a true Bogomil.7 These dramatic events culminated with the act of execution itself. The decision to burn Basil's cloak first may be attributable to the executioners' nervousness at creating a potential martyr. What is not in doubt is that compared with previous heretics, Basil was treated not just as a dangerous religious preacher but also as a conspirator against the emperor and state security.6

By actually burning heretics Alexios employed the powers which Theophylact had advised were available to rulers faced with heresy, but that they should not use. Burning had a long history by the twelfth century and was a punishment used for crimes against the social order. In the classical age it still had associations with sacrificial offerings to the gods. It was used as a punishment for a range of crimes including homosexuality, slaves plotting against their masters, sacrilege, military desertion, arson, coin forgery and particularly, treason.8 By contrast, heresy was not an offence specifically punishable by burning, although it

14 Alex., lib. XV, 9; Hamilton, Christian Dualist Heresies, 178.
15 Jomard Auriac, Études conciliatrices (Copenhagen, 1993), 320.
16 Eva Cantarella, S sophia capitalis in Græce et in Romæ (Milan: Rizzoli, 1991), 223 (homosexuality); 236-7 (sacrifices). Corpus Juris Civilis: Digesta ed. Théodore Monnissen, 16th edn. (Berlin: Weidmann, 1954). The following are from Lib. 48, Sacrosanctum 13, 7 (page 858); decretals 19 [The Pseudo]-8, 2 (865); slaves [petty treason] 19, 28, 11 (868); arsons 19, 28, 12 (868); Title 4 (844) (treason; no specific penalty, but equated with sacrilege). Theodosii Liber XVI cum constitutionibus synodales, ed. Théodore Monnissen and Paulus Krueger, 2 vols. (Berlin: Weidmann, 1954). Coin forgery, vol. 1, 16, 5 (431); Heretics Lib. 46, 5 (the main penalties are fines, exile and confiscation of property. More extreme was branding and for slaves, forced labor). See also M. Hérent, "The inquisition and its atrocities, III," Heteroph Journal, 8 (1967), 60. However, the Calendar bizantinus, ed. Paulus Krueger (Berlin: Weidmann, 1959), 1, 5, 8 (52) citing a decree of 455 urges an unspecified death penalty for teachers of heresy and then adds that their books should be burnt "at lacrimation perpetuam vestigium fumus infiammae ambulae deponent," which would seem suggestive of

15 was a capital crime. By burning Basil and his followers Alexios seems to have achieved that conflation of heresy with treason achieved in the West by Pope Innocent III in 1199 through Vergerentis in senium.16 Alexios did not confine himself to repression. He also undertook didactic measures. He mobilised priests from the church of Hagia Sophia in Constantinople who were to teach the people about the true faith and warn them of the repercussions of involvement in heresy.17 His actions can be summarised as being effective and occasionally militant – he exercised his authority through the patriarchs and bishops, and used the synod for sentencing people to prison and, when the crisis demanded, to burning at the stake.

Discoveries of alleged Bogomils continued throughout the following century, especially during the reign of the Emporor Manuel I Komnenos (1143–1180) who was himself intrigued by the teaching. However, after he overcame the temptation and returned to Orthodoxy, he gave an order "to purge the whole flock of all that Bogomil heresy and those that abide by the holy dogmatists from their heart, let them be a part of the chosen flock, and those that do not ... let them be driven far away from the Orthodox flock."18 The excommunication of individuals from the society was not the only punishment that Manuel had undertaken against the heretics. Theodore Balsamon, the canon lawyer, reported that a number of Bogomils were burned at the stake.19 He also stated that "whole villages and fortresses" were inhabited by heretic Bogomils.20 However, Hugh Eteriano, the Italian theologian based in Constantinople, thought that Manuel was not doing enough and his Contrà Patararos included a plea to the emperor to root out heretics by hanging and fire, punishments

20 Dorothea Malanowski, Johann Von Heinsberg, Miscellanea historica en hominum sui temporis aedificiis chrismatis et sacrificiis, I (Copenhagen, 1996), 137.
Reminiscence of those inflected are Arnold of Brescia. The beginning of the thirteenth century saw action taken against the Bogomils in Bulgaria. In a synod held in 1211 in Tryovo on the initiative of the Bulgarian Tsar Boris (1207–1218), presented himself as “insulted by divine motives” in his fight against the heretics. However, Boris confined himself to the use of anathemas such as: “And to all those who support these heretics, to their customs, their nightly gatherings and sacraments and their useless teaching, as well as to those who accompany them, anathema,” or: “To those who reject and mock the Communion with the holy body of our Lord Jesus Christ, and also reject the entire Sacrament done by Jesus Christ our Lord for our own salvation, anathema.” Boris’s aim was a comprehensive statement of who was and was not part of his political community. Besides heretics, he anathematized those who aided thieves, robbers and murderers and those who made spells and picked fruit on midsummer day, reminiscent of pagan ritual.

In the Western Balkans in Serbia, Stefan Nemanja also legislated rigorous action to suppress heresy. Around 1180 he convened a synod in which the heretics were accused of “blaspheming the Holy Spirit”, of “dividing the indivisible divinity, as the mindless Arius used to speak” and of “serving the apostate from the glory of God, the very Satan himself.” The leader of the group of heretics, generally taken to be Bogomils, had his tongue cut out. His followers were executed or exiled and their books were publicly burnt. There are strands of imperial thought in the way that the ruler safeguarded the spiritual welfare of his subjects and also an awareness of the methods of propagation of heresy through speech and writing. Although powerful enough to order executions Nemanja also made the symbolic gesture, using burning, but not of people, probably a conscious imitation of Justinian’s legislation against heretics.

His son, Sava, the archbishop of Peć, changed tactics completely at the synod in Žiča in 1221. Penitent heretics, both Bogomil and Latin were to be enticed back into the Church through baptism and confirmation respectively, even through gifts for the nobility. Sava’s “exarchate” preached the Orthodox faith and only obstinate heretics were to be driven from their lands (and the lands presumably confiscated). In its leniency it provides a distinctive approach to heresy, perhaps even harking back to Theophylact, but the structure of action being taken at the behest and under the control of a churchman looks to have Western precedents, notably Fourth Lateran itself, while expulsion and confiscation of lands resembles the tactic used in the Albigensian Crusade in southern France. Sava’s role as a charismatic preacher to mixed audiences also resembles the approach of his contemporaries, Dominic or Francis of Assisi in the West.

There is relatively little further evidence for almost a hundred years until the legislation of Stefan Dušan (1331–1355), who ruled over Serbia and much of the Western Balkans. In order to strengthen his rule, Stefan Dušan summoned an assembly in Skopje in 1349 where the law Code which bears his name was adopted. It represented a synthesis of Byzantine legal experience and Serbian common law and several clauses dealt with penalties for heretics: “If any heretic be found to live among the Christians, let him be branded on the face…” or, “who so utters (perhaps only in the sense of discussing) a heretical (‘habar’) word, if he be noble, let him pay 100 pears, and if he be a commoner, let him pay twelve pears and be beaten with sticks.” As so often, Dušan innovated even as he sought imperial precedents. Fines for heresy had little precedent in the Byzantine world and those that Dušan set out were considerable. The quasi-imperial nature of the penalties is entirely in keeping with Dušan’s ambitions and has clear Roman precedents from Theodosius and Justinian. As ever with Dušan’s code, questions remain as to whether his measures were enforceable or whether that was even his intention. There are no further records of him taking action against heresy.

Bogomil religious ideas may also have infiltrated Mount Athos - the cradle of monasticism within the Orthodox world in the fourteenth century.
century. Church authorities reported to the Holy Synod that there were Bogomils who repudiated the cults of the icons, baptism and the Eucharist. Their presence may have been due to the court, Irina of Salonica, whose preaching attracted a number of monks from Mount Athos according to the Life of Saint Theodosius of Trimo. Bogomilism is said to have been present on the holy mountain for three years, and the monk heretics were discovered, anathematized and exiled, and so most of them went to Constantinople, Salonica and Ber. The analysis of the relevant source materials suggests that the actions of the Orthodox church aimed at a number of goals which were not always compatible. There seems real confusion in dealing with a systematic challenge to Church doctrine and organization, so that Theophytlact's strategy seems inadequate and that of Alexios Komnenos and Stefan Nemanja heavy handed and perhaps counterproductive. Unlike the West, the Byzantine world did not have to "rediscover" Roman law it was in force throughout the period, yet it was in fact relatively little used and gave rise to nothing like the elaborate machinery of enforcement which evolved within Catholicism. Another way of looking at the strategy is that Orthodox rulers and churchmen sought to deny influence to heresy. They maintained the purity of the centre, whether it was Constantinople, Athos or Skopje and took action when dissent was discovered there, but they were relatively relaxed about enforcement of conformity in more remote regions.

In the legislation which has come down to us from the Orthodox sphere punishment is more prominent than presence, but that may be related to the sources. Clerics who followed Theophytlact's advice to reconcile heretics may not have left records. What has survived is usually legislation with all its unanswered questions of enforcement and compliance. Rulers could, of course, issue decrees against heresy to enhance their reputation whether or not it was an actual threat; however the pattern of activity against the Bogomils may reflect the history of the sect itself, originating in the tenth century reaching a peak in the twelfth and then dying back, in a way typical of many monastic movements in the middle ages.

30 Christian Double Heresies in the Byzantine World, 52, 283
31 Obohinsky. Bogomils, 256.
32 Konstantakopouloa, "Repealant or dead", 472.

warrior archbishop was not a squeamish man and there is no clue as to what alternative strategy he might have had in mind. Scholarly opinion on the death penalty for heretics is still broadly that of G.G. Coulston who proposed that 'the first executions for heresy were more or less informal, inflicted either by Lynch-law or by some zealous king or noble who took the matter into his own hand...in fact we sometimes find clerics moderating the zeal of others.' Given the prominence of bishops in Italian civil society clerics this judgment is worth re-examination.

North of the Alps the state looks to have taken a more assertive stance. In the notorious Orleans case of 1022 Robert the Pious of France burnt a number of clerics for heresy. The bishop, Odalric, played his part by exhuming and throwing away to somewhere inaccessible the body of another who had been dead for three years. Research has shown that the case was as much about political rivalry as about religious belief, yet it was the first time heretics had been burnt by the state in the West since the days of the Roman empire. The "state" was capable of more impulsive vengeance and the queen put out the eye of her former confessor, Stephen.

The obvious way to explain why burning was the most appropriate punishment is with reference to Roman law in which there was growing interest in the eleventh century. It took its place among a number of factors influencing the choice of punishments. Glaber 34 Quod cum civitates huius maioris loci compositur, neque minoris accipitor, et nec domini ah altera parte erecta, Hieroboli solent... Illis omnibus cunctis lex talibus cist data, ut si vellet quisdam aliqua abstinentia crucem adscire, et fidei quam universus orbis tenet conferrentent, salvi essent; sic autem, vitio elusionem globos armis intravit. Et factum est, ut aliqui ad crucem domini venirent et ipsum confiterent fidem catholica, salvi tenent sunt, et multos mundus ante valium rejudicat inter Damnas exalit, et minores morientes in misericordias eorum reducit satis.' Lapidatio S. Sindone. Mediaevalismus Historiae, ed. Alessandro Carito : Rerum Italicarum Scriptorum, vol. 41 pt.2 (Bologna: Nicola Zanelli, 1943), 68.

35 George G. Coulston, The Death-Penalty for Heresy from 1184 to 1921 A.D. (London: Simpkin, Marshall, Hamilton, Kent and Co., 1924), 2. Unfortunately, the authors were not able to consult S. Rugg, Kircher and R che (Evanston: Hahnische, 2006).

Fires from heaven as punishment for sins were followed by earthly fires consuming heretics. Another source for the Orléans burnings alleged that the heretics burnt the babies born of their immoral liaisons, using the ashes of them as a sacrament. The author, writing in the 1670s and building on a hint of immoral practice given by Adhémar, implicitly justified burning the heretics on the grounds that they had burnt children, although he admitted that the allegation had been made against ancient pagans. 42

The most considered response to the threat of heresy came from Wazo, bishop of Liége, who was consulted about “Manichacans” in the diocese of Châlons in the mid 1040s. Wazo specifically argued against the death penalty for heresy, both on the basis that it was for God to judge (using the analogy of the parable of the wheat and the tares, Matthew 13: 29-30) and because bishops had not received secular authority and therefore were enjoined by God, “not to do unto death, but to quicken unto life.” He also recognized the possibility of indiscriminate slaughter that could result. Instead, spiritual penalties were to be applied. The heretics should be deprived of Catholic communion and it was “officially and publicly announced” to all others to shun the sect for “He that toucheth pitch shall be defiled with it” (Sirach/Ecclesiasticus 13:1. Elsewhere in the letter Wazo perhaps hints at stronger measures. The one manifest characteristic of the heretics is their vegetarianism. Wazo proposed offering them a choice of concursing with the Catholic interpretation that the prohibition, “Thou shalt not kill” refers only to mankind, or be deprived of the use of bread, vegetables and other things of this sort. Wazo could be proposing a penitential fast or starvation into submission. However, it is clear by implication that some of the bishops who were consulting him were in favour of stronger action and that the intervention of the emperor, a notable religious reformer, was a possibility actively considered. 43

Relations were not good between Wazo and Henry III, but there is a possibility a trace of the bishop’s influence in the dealings with heretics at Goslar in 1051. There are also signs of a procedure. ‘The heretics were

Adhémar, Chronicon, 184

42 Ex quo spectissimo concubitus infantum graviter, octava die, in medio eorum cepitos igne occisso, piatorum per ignem, more anticae paganae, et sic in igne cremabantur. Chronicon de Saint-Flour, 112.

punishments of the thirteenth century had the potential to go wrong. In most eleventh century accounts, the tension is almost palpable when the writer starts to mention ‘the people’. In this way Alexios’s treatment of heretics in Constantinople seems more sophisticated with the emperor’s mercy shown to Basil’s followers defusing the difficult problem of the penitent heretic who has earned the crowd’s sympathy.

On other levels too, burning was an awkward solution to the problem of religious dissent. Churchmen were forbidden to shed blood and as has been seen, in both East and West there was still an important body of opinion which saw the heretic as a soul to be saved by penance, rather than a criminal to be expunged. The last issue was only resolved by Western theologians gradually drawing a distinction between the penance levied for the good of the individual’s soul, that is the penitential forum, and the punishment due for damage to the Church, the judicial forum. In this latter sphere preventing the spread of sinful behavior was of great importance. The distinction was not made until quite late in the twelfth century and does not refer to heresy as such, but it must have been in the minds of Peter the Chanter and the other inventive Paris masters who developed the idea.

By the mid-twelfth century there is also evidence that some were following the emphasis drawn from Roman law which concentrated on punishing enablers and protectors of heretics, thereby avoiding burning charismatic preachers. When a group of ‘Pusillanim’ entered England in the first half of the 1160s the government took action by imprisoning them, calling an Episcopal synod at Oxford and then when they refused to repent, branding them, publicly flogging them, driving them out of the city and forbidding anyone to give them shelter. According to one report at least, they all died in the cold of an English winter.68 The council’s actions were enshrined in statute in the Assize of Clarendon clause 21 of which also forbade anyone from receiving any of the sect of renegades (‘aliquem de secta illorum renegatorum’) excommunicated and branded at Oxford. The penalty was that the receiver would be at the king’s mercy and then departed from Roman precedent in that ‘the house in which they dwelt would be carried outside the village and


69 There are obvious overtones of purification after disease and also a very public act of condemnation. Henry II’s government was insecure in the midst of the Becket crisis, but could stand comparison with Byzantium in terms of centralized power and it looked for a comprehensive solution. The prohibition against giving shelter echoes the treatment of any ‘stranger’ ‘wanderer’ or ‘unknown person’ in clause 15 of the assize and there is an attempt at enforcement through individual oath swearing by both royal and baronial officials. Although there is no evidence this was ever carried out, the arrangements had been put in place should the crisis occur.

The punishment of the heretics themselves, while not lenient, again avoided the outright confrontation of the flaming pyre. Public flogging was a feature of formal penance as well as a punishment. Branding was more punitive and had preceded both in Anglo-Saxon law as well as also being included in Roman legislation.60 The influence on Henry’s government may have come from across the Channel. Gilbert Foliot, who was bishop of London by 1166, had attended the 1148 Council of Reims which imprisonment, rather than executed, the heretical, preacher, Eon de l’Etoile, but burnt several of his ‘followers’, probably those who had protected him initially.61 Nine years later a further Council of Reims urged expulsion and branding for the followers of heretics and perpetual imprisonment for leaders as well as seizure of goods.62 There is a contrast with the letter of Fervin of Steinfeld recording the presence and punishment of heretics at Cologne in 1145. The account is significant for a number of reasons, not least because one group claimed connections with “Greece”, generally interpreted as a link to the Byzantine Bogomils. However, the procedure outlined harked back to earlier Western precedents. An arrest was followed by an initial audience with the archbishop and (presumably secular) nobles. A further

audience with clerics, who tried to reason them out of their beliefs was brought to an end after three days by the 'people' who seized them and carried them off to be burned. As usual, it is tempting to believe that the zeal shown was not as spontaneous as Everwin would like us to believe. There is no such hesitancy in the account of the burning of Arnold of Brescia in 1155 in Otto of Freising's Deeds of Frederick Barbarossa. The Bishop of Freising briskly records the just condemnation of Arnold in his absence by his fellow churchmen and his arrest in Tuscany. 'He was held for trial by the prince [presumably Frederick himself] and finally was brought to the pyre by the prefect of the City [Rome]. In fact, Arnold seems to have been hanged then burned, reinforcing the idea that despite the fact that Arnold's ashes were scattered on the Tiber to prevent veneration by the people, Arnold seems to have been punished for treason as much as heresy. His fate was the result of a deal between Barbarossa and Pope Adrian IV. Barbarossa was to be crowned emperor by the pope; in return Adrian IV was to receive imperial help against his enemies in Rome. This was the historical moment where western practices resembled those of the East. The brief alliance of Adrian and Barbarossa created something like the caesareopapist state in Constantinople. Combined with the legal knowledge of advisers like Roland Bandinelli, the master of Bologna and future pope Alexander III it is likely that there was an influential change in the attitude to the Church's sanction of burning heretics. Indeed, the moment was prolonged just enough to allow some possible exchange of notes on how to deal with heretics with ambassadors from Manuel Komnenos, who was briefly on good terms with both emperor and pope.

Certainly the change in atmosphere was felt in Cologne. Writing in the early thirteenth century, Caesarius of Heisterbach describes a smooth procedure when giving his account of how further heretics were arrested there in 1183:

'The heretics who were seized, having been examined and convicted by literate men, were condemned by secular judgment.'

55 Bolton and Duggan, Adrian IV, 240-1.
punishments based on the interlocking of heresy with treason and this was quite similar to the position of the emperors and patriarchs of the East. The divergence came in the thirteenth century with the development of measurable penances for heresy in the West. The Orthodox Church was also interested in reconciling heretics short of burning, but chose quite a different route.

The full majesty of imperial defence of the faith in the West was articulated more, but used less. Frederick I's participation at the Council of Verona in 1184 signalled the willingness of secular authority to intervene in what was until then seen as a largely spiritual crime. However, the legislation which resulted, *Ad abolendum* was produced by Pope Lucius III. In the anti-heresy clauses of his law code of 1231, the *Liber Augustalis* or *Constitutions of Mejfi*. Frederick II took direct responsibility for his subjects' spiritual welfare in a manner reminiscent of eastern emperors. Obstinate heretics were to be burnt alive, the goods of the condemned were to be confiscated and the memories of such heretics were to be condemned even after their death. Turning to those who sheltered, believed in or were accomplices of the heretics or who favoured them in any way, Frederick ordered perpetual banishment and the confiscation of goods. Even their children were to suffer perpetual infamy unless they redeemed themselves by denouncing someone else, which went beyond Roman precedent as Justinian only permitted children to prove their orthodoxy to recover their inheritance. Just how far Frederick meant this legislation to reach is uncertain. He had the *Constitutions* translated into Greek, probably to reach Greek

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65 *Patremonium receptatorum, creditentia et complicis et quoconque modo factores, qui ut a pena alios poenas extremae, de se velut improvisi non formidant, publicatis bonis omnibus relegantibus in perpetuum esse consensos. Ignorantur filii ad homines aliquos nullatantur admissitantes, sed infantes perpetue non laborant, ut in rebus in causis, quibus expelluntur infames, aliquantum admissitantes. Si tamen aliquid de filiis factorum vel receptorum hanc etiam detersent aliquem Patremonium, de colitis perforia manifeste probantes, in fidei primum, quam agravat, fame pristine de imperiali Clementia restitutionibus in integrum beneficium consequitur. *Die Konstitutionen*, 151-2, Powell, *Liber*, 10.

66 *Codex Justinianus*, 1,5,4 for confiscation of goods; 1,5,8 for exile. Mario Ascheri, *I diritti del medievore italiano: novell s. XV* (Rome: Carocci, 2003), 182.

penance in itself. Finally, there was Roman law with its wide array of punishments which fell short of taking lives. These three sources overlapped, forming a common heritage for the churchmen designated to carry out the inquisitors or _inquisitiones_ prescribed at the Fourth Lateran Council. In the first instance these were bishops, but after 1231 they were predominantly Dominican friars, often highly educated and trained preachers and they became the first inquisitors. Early attempts at burning on a larger scale than had been attempted thus far in the West proved counter-productive. The accused were often seen sympathetically by the crowd and the lay power was often alienated by the resulting violence. When operations resumed in the 1240s a more calibrated approach was taken with inquisitors imposing a series of penances, often quite punitive in nature, but designed to re integrate eventually the penitent into the community.

The major difference between East and West in terms of sources is the existence of the western inquisitors' administrative records, comprising the statements of heretical believers or _creden
tia_ and less commonly the penances assigned to them. Although these documents must be read cautiously, they offer the invaluable opportunity to get away from chronicles and legislation and look at how alleged supporters of heretical groups were dealt with on a routine level. Inquisitors took the major themes of the punitive legislation of the twelfth century and produced penitential variants. Instead of banishment and exile there was now pilgrimage, either to local shrines or more distant ones, such as Rome, Canterbury, Jerusalem or Compostella. Timetables were imposed and documents had to be produced as proof of completion. Local pilgrimages were considered especially suitable for women. Another

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Raimundus Saccones, _Summa_, tr. in Wakfield and Evans, _Heresies_, 337.

Manus, _Concilii_, vol. 21, col. 711, canon XV.


inquisition prisons were innovative in that they were purpose built and were primarily places of punishment.

The other principle was that of the branding or stigmatizing of heretics seen at Oxford and in the legislation of Fourth Lateran. It found its parallel in cross-wearing which again had penitential connections (notably crusades), but was adapted by inquisitors in both France and Italy. There was an attempt to enforce a kind of social ostracism through the wearing of bright yellow crosses on the breast and shoulders. Anyone seen consorting with such a penitent automatically became suspect themselves. Yet there was also an inclusive element to this in that an extensive programme of church attendance and listening to preaching was also enjoined. The cross wearing was generally for a relatively short time, from one to three years.37

In practice, the power of the inquisitors was nothing like so systematic and each inquisition had to negotiate its way to its goals. Given has identified individual and collective resistance to inquisitors as well as the structural constraints of the society in which they moved.38

Dousset has shown how competing jurisdictions and papal interference could change or annul penances imposed by inquisitors, especially imprisonment and cross wearing.39 In his study of penances imposed at Montauban in 1245 Jorg Feuchter has shown how many sentenced to cross wearing removed them after a few months or completed only a few of their penitential pilgrimages. His analysis of civic archival sources shows that most of the penitents were drawn from fifteen consular families and his very plausible hypothesis is that the penances were commuted because of the instigation of an act of collective piety, namely the construction of a proper parish church for the town.40 Even prison was relatively unstructured and very susceptible to corruption, with relatively free communication between prisoners and a steady stream of outside visitors.41

One penance which was treated with suspicion by inquisitors was the fine or monetary penance. As has been seen, this is in contrast to the

36 Rauch, 'Penance', 422-5.
37 James Given, Inquisition and Medieval Society (New York, 1997).
40 Given, Inquisition, 79-84.
41 Given, Inquisition, 79-84.
Andrew P. ROACH
Maja ANGELOVSKA-PANOVA

PUNISHMENT OF HERETICS: COMPARISONS AND CONTRASTS BETWEEN WESTERN AND EASTERN CHRISTIANITY IN THE MIDDLE AGES

- summary -

This paper, as the title suggests, examines the penalties church authorities imposed on heretics (mainly Bogomils and Cathars) in the ‘Orthodox’ and ‘Catholic’ spheres of Christendom from the tenth to the thirteenth century.

In Western Europe and the Byzantine empire organised religious dissent was something of a novelty and both sides had to improvise. A common body of Roman law existed in both east and west, enjoining enforcement of religious orthodoxy on the secular power. However, there was also significant body of ecclesiastical opinion which held that spiritual penalties were the best treatment for heretics depending on the level of commitment to the sect and burning was a punishment used for exotic crimes. The use of the pyre by Alexios Komnenos in Constantinople in the early twelfth century marked the start of a relatively short period when imperial defence of orthodoxy was strictly enforced.

Subsequent rulers in both the Byzantine empire and its successor states in the Balkans deployed severe legislation, but in practice tended to allow churchmen to deal with religious dissent. By contrast in the West, although churchmen were uneasy with state’s interference in spiritual matters, by the thirteenth century they had managed to secure the state’s co-operation in identifying, arresting and punishing heretics as well as devising a system of variegated penances for heresy as a component of pastoral care. The real contrast between east and west is the scope of ambition. Whereas eastern rulers and churchmen sought to keep major sources of spirituality unpolluted with heresy, the western church had policies to eradicate unorthodox belief and practice completely.