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# Transgressing the Boundaries of Holiness: Sexual Deviance in the Early Medieval Penitential Handbooks of Ireland, England and France 500-1000.

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**Transgressing the Boundaries of Holiness: Sexual Deviance in  
the Early Medieval Penitential Handbooks of Ireland, England  
and France 500-1000**

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## Abstract

The penitentials were handbooks for priests used in private confession throughout western Europe from the early sixth through the eleventh centuries composed of lists of sins and their corresponding recommended penances. Through the penitentials it is possible to gain a glimpse into the daily lives of early medieval people through the sins they confessed to and which were eventually included in the handbooks. This study will examine how the penitentials were used as teaching tools for the Christianization of sexual morality and as an apparatus for maintaining the separateness between the carnal and the spiritual necessary for the holy to coexist with the sexual. This study will take the form of a closer examination of smaller specific categories of deviance: the nocturnal emissions of clerics, sexual relations during menstruation and pregnancy, homosexuality, bestiality, incest, and adultery. What the penitentials have to say regarding each of these topics will be systematically analyzed for patterns both geographically and temporally as well as being placed within its medieval context.

### Penitentials Used in this Study\*

| <u>Penitential</u>                   | <u>Date</u>                   | <u>Origin</u> |
|--------------------------------------|-------------------------------|---------------|
| Collection of Early Welsh Synods     | 500-525                       | Welsh         |
| Canons of St. Patrick                | 6 <sup>th</sup> Century       | Irish         |
| Penitential of Finnian               | 525-550                       | Irish         |
| Penitential of Columban              | 600                           | Irish         |
| Penitential of Cummean               | 650                           | Irish         |
| Penitential of Theodore              | 668-690                       | Anglo-Saxon   |
| Canones Hibernenses                  | 675                           | Irish         |
| Bigotian Penitential                 | 700-725                       | Irish         |
| Collectio Canonum Hibernensis        | 700-725                       | Irish         |
| Burgundian Penitential               | 700-725                       | Frankish      |
| Bobbio Penitential                   | 700-725                       | Frankish      |
| Clement Penitential                  | 700-750                       | Frankish      |
| Bede's Penitential                   | Early 8 <sup>th</sup> Century | Anglo-Saxon   |
| Pseudo-Bede's Penitential            | Early 8 <sup>th</sup> Century | Anglo-Saxon   |
| Egbert's Penitential                 | 750                           | Anglo-Saxon   |
| Paris Penitential                    | 750                           | Frankish      |
| Fleury Penitential                   | 775-800                       | Frankish      |
| Old Irish Penitential                | 800                           | Irish         |
| Tripartite Penitential of St. Gall   | 800                           | Frankish      |
| Pseudo-Roman Penitential of Haltigar | 830                           | Frankish      |
| St. Hubert Penitential               | 850                           | Frankish      |
| Regino's Ecclesiastical Discipline   | 906                           | Frankish      |
| Pseudo-Egbert's Penitential          | 950-1000                      | Anglo-Saxon   |

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\* The dates provided in the table above are taken from the collections the individual handbooks were taken from. The citations for each handbook can be found in the footnote corresponding to their first use in the text. The collection of early Welsh Synods includes "Excerpts from a Book of David", "The Synod of the Grove of Victory" and "The Synod of North Britain."

### **Defining the Sexual Sacred:**

In her book *Purity and Danger*, Mary Douglas writes, “Holiness means keeping distinct the categories of creation. It therefore involves correct definition, discrimination, and order. Under this head all the rules of sexual morality exemplify the holy.”<sup>1</sup> By this definition, anything which is against the natural order of things is necessarily unholy. In many ways Douglas’ idea of finding holiness in the rules of sexual morality applies very well to the sexual mindset of the Middle Ages. It could be argued that medieval sexual morality is about the categorization of all sexual activity into two categories: good vs. evil or acceptable vs. unacceptable and, as Douglas asserts, those things which violate the social order or the separateness of the holy from the carnal were evil, or unacceptable. For example, the seminal emissions of priests polluted a sacred body or ran the risk of polluting a sacred space, thus mixing the sacred and the corporeal. Whether it was appropriate for a menstruating woman to enter a church was a controversial topic since a woman in the course of her monthly “sickness” was considered the very essence of corporeality and could not be allowed to pollute the sacred realm. Homosexuality, bestiality and incest were all sexual sins that were thought to violate the boundary between man’s holy nature as the image of God and the pure corporeality of lust unredeemed by the potential for procreation. Similarly, the use of contraceptives transformed the sanctified relations between a husband and wife by preventing “the good of marriage” that is, children. With the sanctifying aspect removed, the sex act was considered only an expression of disordering lust. Put simply, non-procreative sex acts removed the holy in favor of the corporeal. Adultery presented an even greater threat

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<sup>1</sup> Mary Douglas, *Purity and danger; an analysis of concepts of pollution and taboo*, (New York: Praeger, 1966), 53.

because it was seen as an unsanctified relationship in which children were not the desired outcome. If the couple did manage to gain some small spiritual redemption through the birth of children, they violated sexual morality by violating the social order, making adultery doubly dangerous. Overall, the unifying factor within medieval thought on these topics and on sexual morality in general is the pervasive uneasiness about the relationship between spirituality and carnality. In short, medieval theologians needed a way to make a fundamentally carnal act holy, or at least spiritually acceptable, and to relate to the faithful in what circumstances the spiritual and corporeal could mix, albeit uncomfortably, and in which circumstances they had to be rigidly separated. The penitentials were one major venue for the expression of these categories.

The penitentials are essentially handbooks to be used by priests in hearing confession. They were originally fairly large works used by confessors in religious communities, and were found slightly later as smaller guidebooks for local priests in their confessional practice. These handbooks originated in Ireland in the sixth century. From Ireland they spread to Anglo Saxon England by the late seventh century and to the Continent by the turn of the eighth century.<sup>2</sup> The penitentials are composed of lists of sins and the corresponding punishments. The handbooks generally start with a statement of belief, and most of the later examples follow with a description of how the priest should proceed to draw out the confession of the penitent in question. The older penitentials tend to be more specific – offering various scenarios a person might confess to and the penance for it. For example, the early sixth century penitential of Finnian prescribes as follows:

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<sup>2</sup> James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe*, (Chicago: University of Chicago Press, 1987), 598-599.

If one of the laity is converted from his evil-doing unto the Lord, and if he has previously wrought every evil deed, that is, the committing of fornication and the shedding of blood, he shall do penance for three years and go unarmed except for a staff in his hand and shall not live with his wife. After a penance of three years he shall give money for the redemption of his soul and the fruit of repentance into the hand of the priest and make a feast for the servants of God...<sup>3</sup>

On the other hand, the later confessional literature tends to be less specific and tends to emphasize that the priest should ask the individual penitent questions in order to properly determine the sin to be penanced. A typical selection from the early eleventh century can be found in the *Corrector* of Burchard of Worms, in which he has the priest ask “Hast thou done or said anything by way of sorcery or magic in beginning any task and has not invoked the name of God? If thou hast, thou shouldst do penance for ten days on bread and water.”<sup>4</sup> The *Corrector* is one of the latest collections of penances, as the writing of these handbooks seems to have petered out by the early eleventh century.<sup>5</sup>

The penitentials developed as a product of the changeover from public to private confession. In the early Christian Church there was a lack of unity in determining what the proper ritual for reconciliation was, although it was universally public and communal. While each local church or diocese generally made its own decisions regarding discipline in recently Christianized areas, by the third century reconciliation was a process by which sinners confessed their sins publicly, usually once within their lifetime and were excommunicated by the congregation until it was determined that they had made satisfaction, at which point they would be readmitted in stages. Generally, the local

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<sup>3</sup> “The Penitential of Finnian” in *Medieval Handbooks of Penance: A Translation of the principal libri poenitentiales and selections from related documents*. Eds. and Trans. John T. McNeill and Helena M. Gamer, (New York: Colombia University Press, 1990), 94.

<sup>4</sup> Burchard of Worms, “Corrector”, in *Ibid.*, 334.

<sup>5</sup> Brundage, *Law, Sex, and Christian Society*, 599.

bishop would act as judge and prosecutor.<sup>6</sup> The first mention one finds of the practice of private penance appears in the middle of the fifth century as a special privilege given to priests and deacons by Pope Leo I. Presumably from there the practice spread to the Irish monasteries where the penitentials made their first appearance and later to the laity.<sup>7</sup>

The value of the penitentials as a source for information on the sex lives of medieval people depends on whether or not one accepts that they are a reflection of actual practice. That is, are they compilations of actual sins heard in the course of confessional experience, or the product of prurient clerical imaginations? Various authors have weighed in on this topic, for the most part implicitly rather than explicitly. One of the most prolific authors on medieval sexuality, James Brundage argues that the penitentials were not only compiled out of real world experience but were intended to be prescriptive and have real world applications.<sup>8</sup> In *Ordering Women's Lives*, Julie Ann Smith makes the case that the lists of sexual activities given in the penitentials are reflective of everyday life and that the penitentials were meant to be technologies of control, or teaching tools for the laity. Smith, however, is less clear about what kind of actual effect the penitentials may have had.<sup>9</sup> Pierre Payer's *Sex and the Penitentials* is one of a handful of scholarly works that deal specifically with the penitentials and is the only book exclusively concerned with the sexual content in the penitentials. Payer also rejects the idea that the sexual material in the handbooks were made up whole cloth and

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<sup>6</sup> Henry Charles Lea, *A History of Auricular Confession and Indulgences in the Latin Church*. Vol. 1, (New York: Greenwood Press Publishers, 1968), 7, 11-12.

<sup>7</sup> Ibid., 21.

<sup>8</sup> Brundage, *Law, Sex, and Christian Society*, 152-153.

<sup>9</sup> Julie Ann Smith, *Ordering women's lives : penitentials and nunnery rules in the early medieval West*, (Aldershot: Ashgate, 2001), 15, 5.



argues instead that they were used regularly and that the canons in them reflected actual sexual practice.<sup>10</sup> Payer also claims that the penitentials “were the mediators between the general, theoretical ideas they sought to apply and the level of actual practice that was their sphere of immediate concern.”<sup>11</sup> Payer also rightly claims that the earliest penitentials were tools for Christianizing the sex lives of newly converted peoples. He thereby makes the case that the penitentials provide an invaluable source for examining the “sexual concerns” of the growing Church.<sup>12</sup> *Sex and the Penitentials* covers the same approximate time period as that covered by this study, although it does not exclude the German handbooks. The book includes a deviance-based section on the penitentials prior to 813, as well as a section on the penitentials of the ninth century and their reception and a section on the canonical collections after the turn of the tenth century.<sup>13</sup>

While some of the original translators of the penitentials did seem to feel that they were the result of prurient imaginations and should not be ascribed to the eminent figures who apparently authored them, the mainstream view among recent scholars seems to be that they were compiled out of actual confessional practice and were employed regularly by parish priests. Parish priests would have had ample opportunity to collect data regarding the sins of their flock, as at least in Carolingian Francia there is evidence to suggest that going to confession three times a year, preceding Easter, Pentecost and Christmas as preparation for receiving communion, was fairly standard lay practice.<sup>14</sup>

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<sup>10</sup> Pierre Payer, *Sex and the Penitentials: The Development of a Sexual Code 550-1150*, (Toronto: University of Toronto Press, 1984), 12-13.

<sup>11</sup> *Ibid.*, 3.

<sup>12</sup> *Ibid.*, 4-5.

<sup>13</sup> *Ibid.*, v-vi.

<sup>14</sup> Rob Meens, “The Frequency and Nature of Early Medieval Penance” in *Handling Sin: Confession in the Middle Ages*, ed. Peter Biller, (Suffolk: York Medieval Press, 1998), 38.

That the penitentials were, in fact, used by parish priests is clear. In a study of 106 manuscripts containing penitential handbooks, Rob Meens concludes that only fourteen were meant for use by a bishop as those collections often included collections of canon and secular law; thirty six appear in collections clearly meant for pastoral use.<sup>15</sup>

Furthermore, Meens concludes “that they were actually used by confessors is suggested by the appearance of the manuscripts, which are not only simple, small, unadorned and originally unbound, but sometimes still bear marks that show heavy use.” They are also listed in surviving inventories of parish priests’ possessions.<sup>16</sup>

This study takes the stance that the penitentials are an invaluable source for the Middle Ages as a whole, but particularly for the early Middle Ages. Because of the practical nature of their authorship and use, these handbooks represent perhaps the closest view modern scholars can get of the daily lives of early medieval people. This study examines the penitentials of Ireland, England and France from the sixth century through the year 1000.<sup>17</sup> Most scholarship, with the exception of Payer’s and Smith’s, has avoided systematic study of the penitentials in favor of using them for random quotations to prove a point. This is probably because they have a reputation for a lack of pattern or continuity. This study examines the penitentials for geographical and temporal patterns of treatment regarding four areas of sexually ‘deviant’ behavior within the greater medieval discourse on those topics. The purpose of this is twofold. First, the penitentials are one of the few major bodies of work which link all of western Europe during the early medieval period. Their chronology and geography span the entirety of western Europe during the early Middle Ages. It is difficult, if not impossible, to find another source base which

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<sup>15</sup> Ibid., 41-43.

<sup>16</sup> Ibid., 46-47.

compares to the handbooks with regard to the spread of ideas of sexual morality in that time period. Second, examining what the penitentials have to say on controversial issues such as sexual deviance and comparing it to what the rest of medieval learned society is saying in the same place, at the same time can give us some idea of which way the discourse between learned and lay society is flowing regarding sexual practices. In a very real way, the penitentials represent a bridge between learned and lay society, especially as the Middle Ages wore on. This study also departs from previous studies in that it seeks to determine the relative severity of the various sexual sins contained in the penitentials. For the purposes of this study, the relative severity of any given penalty will be determined by viewing its base penance as a percentage of the highest possible penalty given to any sexual sin within the same handbook. This study is comprised of smaller studies of how the penitentials' attitudes toward sexual pollution and concerns over ritual purity, homosexuality, bestiality, incest, and adultery changed across time and geography and how those attitudes fit into the larger framework of medieval attitudes toward those categories of deviance.

### **Purity and Pollution:**

The first category of deviance this study examines deals with issues of sexual pollution stemming from the violation of the boundary between the carnal and the spiritual necessary to the medieval definition of sexual purity through the uncontrollable functions of the human body. Specifically, this chapter will examine how the penitentials

dealt with the involuntary seminal emissions of clerics and the sex lives of menstruating, pregnant and recently delivered women.

### **Nocturnal Emission:**

The penitentials and other texts written for a specifically monastic audience are full of references to nocturnal emission.<sup>18</sup> According to Dyan Elliot “Nocturnal emission was a matter of considerable concern until the time of Gregory the Great<sup>19</sup>, [it] received only the most routine treatment...from the seventh until the twelfth century, and thereafter commanded increased attention until the end of the Middle Ages.<sup>20</sup> Earlier medieval treatment of involuntary ejaculation tends to deal specifically with its implications for members of the clergy. It sought to answer questions about the degree of sinfulness it entailed, how to avoid it, and whether or not it was appropriate to go to communion afterward. As concerns the earlier Middle Ages, much of what follows relies on the writings of John Cassian<sup>21</sup> for two reasons. First, his tracts represent a wealth of material on this topic which is not to be found anywhere else, with the notable exception of the penitentials. Secondly, and perhaps more importantly, the elements of his works which deal with the sexuality of ascetics contain an element of frankness and practicality which

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<sup>18</sup> I'm referring specifically to the works of John Cassian, which the Rule of St. Benedict specifically recommends monks read for further spiritual guidance, and which are used extensively below. St. Benedict, *The Rule of St. Benedict*, Chapter 73, Christian Classics Ethereal Library, <http://www.ccel.org/ccel/benedict/rule.lxxv.html?highlight=institutes#highlight>.

<sup>19</sup> Gregory the Great (c.540-604) also known as Pope (St.) Gregory I was a very active early medieval pope who was a great supporter of monasticism and was also particularly concerned with converting the Anglo-Saxons to Christianity. Kevin Knight, “Pope St. Gregory I (“the Great”)” in *The New Advent Catholic Encyclopedia*, <http://www.newadvent.org/cathen/06780a.htm>.

<sup>20</sup> Dyan Elliot, *Fallen Bodies : Pollution, Sexuality, and Demonology in the Middle Ages*, (Philadelphia: University of Pennsylvania Press, 1999), 15.

<sup>21</sup> John Cassian (c. 360-435) was a prominent ascetic and prolific writer on monastic life active in the middle east and southern Gaul. He is one of those responsible for bringing eastern hermetic-style monasticism into western Europe. Kevin Knight, “John Cassian” in *The New Advent Catholic Encyclopedia*, <http://www.newadvent.org/cathen/03404a.htm>.

is difficult to come by in medieval ecclesiastical literature and which in certain ways is quite similar to the penitential handbooks.

Nocturnal emissions could be both physically and spiritually dangerous to the medieval man. Aretaeus the Cappadocian counseled that even young men who ejaculated too frequently

...necessarily became old in constitution, torpid, relaxed, spiritless, timid, stupid, enfeebled, shriveled, inactive, pale, whitish, effeminate...For it is the semen when possessed of vitality, which makes us to be men, hot, well braced in limbs, hairy, well voiced, spirited, strong to think and to act.<sup>22</sup>

While the second century doctor made it clear that a dearth of sperm was feminizing and unhealthy, medieval medical belief in the need for a balance of humors in the body also taught that too much sperm brought on by extreme abstinence could also be unhealthy.<sup>23</sup>

Despite the apparent health effects of too much or too little semen in the body, the primary reason for monastic concern was the spiritual dangers such emissions posed.

There were thought to be several reasons for nocturnal emissions. For example, the author of the Pseudo-Egbert Penitential gives three, saying "Now out of natural weakness and helplessness, now out of superfluous food and drink, now also, when a man throughout the day imagines and contemplates worthless and illicit things..."<sup>24</sup> John Cassian in particular had much to say on the topic. Cassian saw the prevention of nocturnal emission as part of an ongoing battle for a monk's chastity being waged between the spirit and the flesh as well as the spirit and the demonic. He offers three

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<sup>22</sup> Quoted in Peter Allen, *The Wages of Sin: Sex and Disease, Past and Present*, (Chicago: University of Chicago Press, 2000), 83.

<sup>23</sup> Ibid.

<sup>24</sup> Hermann Wasserschleben, "Poenitentiale Pseudo Ecgberti," in *Die Bussordnungen der abendländischen Kirche*, (Graz: Akademische Druck- U. Verlagsanstalt, 1958), 331. "nunc ex naturali infirmitate et imbecillitate, nunc ex superfluitate cibi et potus, nunc etiam, quum homo per diem cogitate et meditatur res inanes et illicitas..."

causes for nocturnal pollution, that is that the monk has indulged in too much food, “a careless mind”, or that it is caused by the provocation of demons.<sup>25</sup> In the first case he cautions the sufferer to guard against gluttony and in the second case to “restrain our wandering thoughts, lest the mind grow accustomed to these diversions....”<sup>26</sup> He seems to be referring to the third cause for nocturnal emission when in his *Institutes* he offers advice in coping with the early morning erections:

Firstly, lest the jealous fiend through some dream defile the purity which was gained in the psalms and prayers of the night, angered by our chastity to which he is ever most opposed. Once we have obtained pardon for your ignorant transgressions, and forgiveness begged with tears in confession, he is determined to corrupt us if he finds a moment’s chance, and is most anxious to weaken or destroy our confidence when he sees us devoutly turning to God in purity of prayer. Thus he attempts during the short space of this hour after vigils to bring down those whom he failed to defeat all night long.<sup>27</sup>

Cassian is not alone in associating visions and dreams which inspire lust with the devil or with demons. In his *Dialogues*, Pope Gregory the Great tells the story of a monk who is tempted by the devil with thoughts of a woman. On the verge of being overcome with lust and abandoning his holy lifestyle, the monk throws himself naked in to a patch of thorn bushes and “rolled and tossed until his whole body was in pain and covered with blood.”<sup>28</sup> Both Cassian and Gregory recommend prayer and manual labor as a means to fight off temptation.<sup>29</sup> Cassian states that lustful desire must be replaced with spiritual desire.<sup>30</sup> Pope Gregory suggested that men who are troubled by lust must “tire themselves

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<sup>25</sup> Cassian, John and Boniface Ramsey, *The Conferences*, Ancient Christian Writers, no. 57. (New York: Newman Press, 1997), 22.3.1.

<sup>26</sup> Ibid., 22.3.2 and 22.3.5.

<sup>27</sup> Cassian, John and Boniface Ramsey, *John Cassian, The Institutes*, Ancient Christian Writers, no. 58. (New York: Newman Press, 2000), 2.13.1 p. 24.

<sup>28</sup> Gregory the Great, *Dialogues*, trans. Odo John Zimmerman, (New York: Fathers of the Church Inc., 1959), 2.2 p. 59-60.

<sup>29</sup> Cassian, *Institutes* 2.14

<sup>30</sup> Cassian, *Conferences*, 12.5.3

out with strenuous work.”<sup>31</sup> A similar belief that demonic influence can lead to nocturnal seminal emission is presented in the Pseudo-Egbert Penitential when the author provides the penance for a man who “is polluted in sleep through a diabolical dream.”<sup>32</sup> In addition to seeing the battle for one’s chastity as a fight between the spirit and the devil, Cassian discussed at length the battle between the human spirit and the flesh. He says that “since both of these- namely, the desires of the flesh and those of the spirit- exist in one and the same human being, an interior battle is daily waged within us as long as the desire of the flesh, which swiftly descends into vice, rejoices in those delights which pertain to the present repose.”<sup>33</sup> Thus, for Cassian, the demands and weaknesses of the flesh are troubling and represent the path to temptation and defilement, but they can also be used to excuse nocturnal emissions under some circumstances. In his *Conferences* Cassian put forth a debate over what could be blamed on nature and not on vice. He warned against being too ready to blame one’s sinfulness on nature, but with regard to the issue of nocturnal emission he said that if someone “arrives at the state of purity where his mind is already completely free of this passion’s titillation but his flesh expels something like an excess of moisture during sleep, he will recognize with utter certainty that nature is at work.”<sup>34</sup> There are a few things which make this natural excuse for nocturnal emission significant. First, at least in part, the emission is acceptable because the ascetic’s ‘mind is already completely free of this passion’s titillation’ that is; there is no accompanying erotic dream and no pollution from lust. Secondly, the statement that ‘his flesh expels’ the semen linguistically separates the pure mind from the impure flesh, thus cleansing the

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<sup>31</sup> Gregory, *Dialogues*, 2.2 60-61.

<sup>32</sup> Wasserschleben, “Poenitentiale Pseudo-Egberti,” in *Bussordnungen*, 332. “et per diaboli figmenta polluatur in somno...”

<sup>33</sup> Cassian, *Conferences* 4.11.2 p. 161.

<sup>34</sup> Cassian, *Conferences* 12.8.5 p. 445-446.

cleric from any responsibility for the emission. That is, the pure mind and the uncooperative flesh are not one but the flesh represents some strange and uncontrolled other. To lend support to his view that the workings of nature excuse involuntary ejaculation Cassian also quoted Theonus:

Yet if the most wicked enemy deceives...our slumbering mind...in such a way that no guilty irritation occurs and there is no contamination resulting from an assent to pleasure, and if he just provokes a natural emission compelled by necessity, which only occurs at the onslaught of the devil, and without any feeling of wantoness...<sup>35</sup>

According to Theonus, it would be acceptable for the afflicted party to go to communion. In furtherance of his assertion that in some cases these emissions are caused by nature and not by lust, Cassian then goes on to quote several sources which claim that involuntary nocturnal arousal which was unaccompanied by lust was caused by a full bladder and even occurred in eunuchs and children.<sup>36</sup>

Cassian and other medieval thinkers believed that freedom from these problematic emissions came only through the grace of God. Specifically, Cassian wrote that maintained abstinence from nocturnal emission came from God's protection and warned that if someone was "lulled by a prolonged quiescence of the disgusting fluid, he will be weakened by a flattering sense of security, for he knows that he will immediately be sullied by a wetting from the unclean discharge if the divine protection departs from him for a very little while."<sup>37</sup> Pope Gregory the Great expressed similar ideas in his *Dialogues* when he related the story of Equitius. The man was beset by lustful thoughts and prayed to God for help in overcoming them. He had a vision of himself "made a eunuch while an

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<sup>35</sup> Quoted in Cassian, *Conferences*, 22.5.2.

<sup>36</sup> Cassian, *Conferences*, 12.9-12.11, p. 446-449.

<sup>37</sup> Ibid., 12.4.4, p. 438.



angel stood by.”<sup>38</sup> Apparently, Equitius’ problems ceased after the aforementioned vision.

Later in the Middle Ages, the concern with nocturnal emission became more elaborate. Concerns over its polluting effects and whether or not it was acceptable to go to communion afterwards gave way to anxieties over the possible uses of the wasted semen and strengthened ties to the demonic. The ties to the demonic increased so much that by the first quarter of the thirteenth century Caesarius of Heisterbach<sup>39</sup> wrote that “Demons collect all wasted human seed, and from it fashion for themselves human bodies....”<sup>40</sup> Thomas Aquinas would later present a scenario in which

...a demon would first pose as a succubus, garnering the unsuspecting human male’s seed, next would transport it at dizzying speed (so none of the heat of its generative virtue would be lost), and then would shapeshift into a male-seeming incubus. In this form it would impregnate a woman.<sup>41</sup>

Although in this case one could argue that the woman was just as polluted as the man by sexual intercourse with a demon, Albertus Magnus<sup>42</sup> made it clear that at least the pollution of involuntary emission was restricted to men. He wrote that women did not usually have nocturnal emissions not because they are less driven to lust, or have attained a higher level of chastity but “because their bodies are less porous and the seed of coitus does not leave them except through extensive rubbing.”<sup>43</sup>

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<sup>38</sup> Gregory, *Dialogues*, 1.4, p. 16.

<sup>39</sup> Caesarius of Heisterbach was a Cistercian monk and one of the most prolific theological writers of the late 12<sup>th</sup>/early 13<sup>th</sup> centuries. Kevin Knight, “Caesarius of Heisterbach” in *The New Advent Catholic Encyclopedia*, <http://www.newadvent.org/cathen/03137a.htm>.

<sup>40</sup> Quoted in Elliot, 33.

<sup>41</sup> Elliot, 33.

<sup>42</sup> St. Albertus Magnus (c.1193-1280) was a Dominican Monk and well known Philosopher. He was a prolific writer, taught at Cologne and Paris and had Thomas Aquinas among his students. Kevin Knight, “St. Albertus Magnus” in *The New Advent Catholic Encyclopedia*, <http://www.newadvent.org/cathen/01264a.htm>.

<sup>43</sup> Quoted in Elliot, 46.

### The Penitentials on Nocturnal Emission:

Dyan Elliot's assertion that nocturnal emissions received only routine treatment in the penitentials is, in general, well supported by the handbooks themselves. There is a great deal said with great repetition in the penitentials regarding nocturnal pollution. Most of the penitential authors' concerns centered around how voluntary or involuntary the emission was, and whether the emission was brought on by an erotic dream. For example, the penitential of Cummean states, "He who is willingly polluted during sleep, shall arise and sing nine psalms in order, kneeling. On the following day he shall live on bread and water; or he shall sing thirty psalms, kneeling at the end of each."<sup>44</sup> That canon is rather confusingly followed by another which states "He who desires to sin during sleep, or is unintentionally polluted, fifteen psalms, he who sins and is not polluted, twenty-four."<sup>45</sup> Both canons are frequently repeated throughout the penitentials and represent the fundamental problem which later medieval churchmen had with the handbooks, namely, their jumble of contradictory canons. Nonetheless, the distinction between intentional and unintentional pollution as an aggravating or mitigating factor is clear and is a constant throughout all of the handbooks examined here.

There are three main traditions in the penitentials with regard to involuntary nocturnal emissions, almost all of which follow the biblical prescriptions for men who have had involuntary seminal emissions. According to one of these traditions, Deuteronomy 23:10-11, "If there be among you any man, that is not clean by reason of uncleanness that chanceth him by night, then shall he go abroad out of the camp...but it

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<sup>44</sup> John T. McNeill and Helena M. Gamer, "The Penitential of Cummean" in *Medieval handbooks of penance: a translation of the principal "libri poenitentiales" and selections from related documents*, (New York: Columbia University Press, 1990), p. 104.

<sup>45</sup> Ibid.

shall be when evening cometh on, he shall wash himself with water and when the sun is down, he shall come into the camp again.”<sup>46</sup> In this case, the emission seems to be involuntary and the period of pollution is only one day.

The main tradition with regard to nocturnal emissions is found first in the “Excerpts from a Book of David” written in the first quarter of the sixth century. The two canons which deal specifically with the subject say,

He who intentionally becomes polluted in sleep shall get up and sing seven psalms and live on bread and water for that day; but if he does not do this he shall sing thirty psalms. But if he desired to sin in sleep but could not, fifteen psalms; if, however, he sinned but was not polluted, twenty-four; if he was unintentionally polluted, fifteen.<sup>47</sup>

The penitential of Cummean repeats the same general canons only raising the number of requisite psalms from seven to nine and extending the penance over two days instead of one.<sup>48</sup> The Bigotian penitential repeats the same canon but omits the bizarre stipulation that having an erotic dream without accompanying seminal emission garners twenty four psalms.<sup>49</sup> The Bobbio penitential prescribes only seven psalms and a one day fast, but gives a penance of thirty psalms for a repeat occurrence.<sup>50</sup> The Pseudo-Bede penitential repeats the canon above with the fast replaced by thirty psalms and the addition of twenty two psalms if the penitent was polluted by his own thoughts, presumably by an erotic dream. The penitential of Egbert repeats the original canon but instead of the choice between thirty additional psalms or a one day fast the penitent must sing all thirty seven

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<sup>46</sup> Deut.: 23:10-11.

<sup>47</sup> McNeill and Gamer, “Certain Excerpts from a Book of David,” in *Handbooks*, 173.

<sup>48</sup> “Cummean” in *Ibid.* 104.

<sup>49</sup> Ludwig Bieler, “The Bigotian Penitential” in *The Irish Penitentials*, *Scriptores Latini Hiberniae*, v. 5. (Dublin: Dublin Institute for Advanced Studies, 1963), 220-221.

<sup>50</sup> Wassersleben, “Poenitentiale Bobiense,” in *Bussordnungen*, 410.

psalms, some of which are specified in the canon.<sup>51</sup> The Paris penitential repeats the original canon in its entirety.<sup>52</sup> The latest example of this canon in the works examined here can be found in Regino's *Ecclesiastical Discipline* in which the original canon is repeated without the stipulation of fifteen psalms for involuntary pollution and with a total of thirty seven psalms in place of a one day fast.<sup>53</sup> This canon appears in six of the twelve handbooks which discuss nocturnal emission and is evenly dispersed across each of the regions and the entire period of time under consideration.

While the inclusion of the same canon with very minor variations in each of the handbooks discussed above does support the belief that involuntary seminal emissions were treated fairly routinely, there are other handbooks that do not draw from that tradition and provide their own canons. The penitential of Theodore, written around 670 does not explicitly refer to nocturnal emission in the way the penitentials discussed above do with the exception of a monk having an emission while sleeping in church. However, a canon which says "...if a presbyter is polluted through imagination, he shall fast for a week"<sup>54</sup> may refer to pollution as a result of erotic dreams. A similar canon can be found in many other penitentials. Many of those penitentials, however, do not reference masturbation as explicitly as the penitential of Theodore, although they do deal very explicitly with nocturnal emission. It is possible that this particular canon found in those texts which do not deal explicitly with masturbation is referring to fantasizing while partaking in that activity. Since Theodore deals very explicitly with masturbation

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<sup>51</sup> Arthur W. Haddan and William Stubbs, "Egbert's Penitential," in *Councils and Ecclesiastical Documents Relating to Great Britain and Ireland*, (Oxford: Clarendon Press, 1869), 425.

<sup>52</sup> Wasserschleben, "Poenitentiale Parisiense," in *Bussordnungen*, 416.

<sup>53</sup> Regino of Prum, *Reginonis Abbatis Prumiensis Libri Duo De Synodalibus Causis et Disciplinis Ecclesiasticis*, ed. F.G.A. Wasserschleben, (Graz: [s.n.], 1964), 512.

<sup>54</sup> McNiell and Gamer, "The Penitential of Theodore" in *Handbooks*, 191.

elsewhere, it is probably safe to assume that this canon does not refer to that activity. That assumption combined with the fact that canons dealing with nocturnal emission would be a very startling lack in a penitential which deals with sexuality so thoroughly suggests that in this case the canon given above does in fact refer to erotic dreams and the accompanying seminal emissions. This assumption is further supported by the fact that the same canon appears in the Pseudo-Bede penitential in a combined canon with the penance for seminal emission in church. The canon given in Pseudo-Bede is the same as that in Theodore with the notable exception that it is explicitly combined with a canon on nocturnal emission and that the one week fast may be replaced by singing fifty psalms.<sup>55</sup> Pseudo-Bede's is the harshest penance and the only one which completely breaks with the guidelines in Deuteronomy. Because of the lack of control most men would feel they had over nocturnal emission, it is not surprising that this canon appears in only two of the twelve handbooks which handle the subject. The penances themselves may imply a greater amount of control on the part of the penitent as the stipulation that the emission is brought on by the penitent's imagination implies a fault of the mind and not an involuntary movement of the body. The stipulation of a week long fast could also imply the responsibility of the polluted party if it is given in response to the belief that these emissions could be caused by gluttony. That such an idea was present in at least some of the penitentials is demonstrated by the inclusion in the Bobbio penitential written in the first quarter of the eighth century which states, "If he is polluted out of a full body, he will say twenty psalms, and fast that day."<sup>56</sup> A similar knowledge of this possible excuse for nocturnal emission is displayed in the Old Irish penitential which says, "These are the

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<sup>55</sup> Wassersleben, "Pseudo-Bede," in *Bussordnungen*, 263.

<sup>56</sup> Wassersleben, "Poenitentiale Bobiense," in *Bussordnungen*, 411.

remedies against fleshly lust, namely, subduing of gluttony, moderate meals, moderation in drink...”<sup>57</sup> Finally, the Pseudo-Egbert penitential says that “if he falls out of an excess of food or drink, he is at fault, however he is not forbidden the Eucharist, nor singing the mass...”<sup>58</sup> Although the canons appear under fornication and not gluttony in both handbooks, such a possibility should not be discounted altogether. The Old Irish penitential and the Pseudo-Egbert penitential also include original canons regarding nocturnal emission, prescribing twenty paternosters and twenty genuflections and thirty prostrations respectively.<sup>59</sup> The St. Gall penitential is also unique in that it is the only handbook out of those examined here which prescribes a graded penance based on the ecclesiastical rank of the penitent. Under the St. Gall canon a bishop must say forty psalms, a presbyter thirty, a monk fourteen and all must wash with water and abstain from communion for the day, while a priest who is polluted without lustful thoughts must sing twenty psalms and, if it is necessary, may perform the mass that day.<sup>60</sup>

While for the most part, nocturnal emission is dealt with routinely in the penitentials when it is discussed at all (it appears in only half of the penitentials examined here) there are a few instances of innovation and creativity to be found. Most of the penitentials follow the single day prescription set forth in the Bible, and seem to recognize the lack of control a man would have over whether or not he was polluted in this fashion. In fact, that recognition is the defining factor of the penitentials treatment of nocturnal emission, that is, what degree of control did the penitent exercise over his

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<sup>57</sup> Bieler, “Old Irish Penitential,” in *Irish Penitentials*, 262.

<sup>58</sup> Wasserscheleben, “Poenitentiale Pseudo-Egberti,” in *Bussordnungen*, 331. “Et si ex superfluitate cibi vel potus acciderit, culpabilis est, et tamen non est eucharistia prohibendus, nec missae cantu...”

<sup>59</sup> Bieler, “Old Irish Penitential,” in *Irish Penitentials*, 264 and Wasserscheleben “Poenitentiale Pseudo Egberti,” in *Bussordnungen*, 305.

<sup>60</sup> Wasserscheleben, “Poenitentiale XXXV Capitulum,” in *Bussordnungen*, 513.

condition? In general, however, Dyan Elliot's assertion that the penitentials deal rather routinely with nocturnal pollution is accurate. The penitentials represent a slow couple of centuries as far as interest in the topic goes, and represent the majority of very limited material on that subject from a time which fell in between periods of heightened interest in the matter.

### **The Polluting Powers of Women: Pregnancy and Menstruation:**

If the polluting aspects of nocturnal emissions grew out of ambiguities of men's control over their own bodies, then one can see the polluting aspects of menstruation and pregnancy as indicative of anxiety over the uncontrollable aspects of the female body and their implications for a couple's sex life. The association of menstruation and pollution can be found very early in the Judeo-Christian tradition. Leviticus discusses both semen and blood in terms of contagion and defilement, but especially blood. Anything a menstruating woman touches was held to be unclean and she was directed to receive atonement once the bleeding stops. She was considered impure in and of herself when menstruating but the pollution was greater if she participated in sexual intercourse during that time. According to Leviticus "If a man shall lie with a woman having her sickness, and shall uncover her nakedness; he hath discovered her fountain, and she hath uncovered the fountain of her blood: and both of them shall be cut off from among their people."<sup>61</sup> In this case, not only was the couple polluted, but it is made clear that engaging in intercourse during that time was inherently shameful.

### **Menstruation in the Penitentials:**

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<sup>61</sup> Lev: 20:18.

Although there is nothing in the penitentials which goes quite as far as Leviticus in insinuating that a woman must make atonement after her period and therefore that menstruation was inherently sinful, all of the penitentials which deal with menstruation do consider it polluting. The penitential of Theodore forbids menstruating women from entering a church, stating: “women shall not in the time of impurity enter into a church, or communicate-neither nuns nor laywomen; if they presume [to do this] they shall fast for three weeks.”<sup>62</sup> The Old Irish penitential says only that “Women do not go to the Sacrament when their monthly sickness is upon them,” but offers no penalty for doing so.<sup>63</sup> This stipulation occurs only twice in the penitentials examined herein and is probably fairly rare because it goes against the decisions given by Gregory the Great to Augustine of Canterbury in which the Pope said:

Yet still a woman, while suffering from her accustomed sickness, ought not to be prohibited from entering the church, since the superfluity of nature cannot be imputed to her for guilt, and it is not just that she should be deprived of entrance into the church on account of what she suffers unwillingly... Further, she ought not to be prohibited during these same days from receiving the mystery of Holy Communion. If, however, out of great reverence, she does not presume to receive, she is to be commended.<sup>64</sup>

Of far greater concern to the authors of the penitentials than whether a woman came to church while having her menstrual period was the possibility of sexual activity during that time. Out of the twenty three penitential handbooks examined here, only nine mention sexual activity during menstruation at all. The earliest mention occurs in the penitential of Cummean, written around 650, which says only, “He who is in a state of matrimony ought to be continent during the three forty-day periods and on Saturday and

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<sup>62</sup> McNeill and Gamer, “The Penitential of Theodore,” in *Handbooks*, 197.

<sup>63</sup> Bieler, “Old Irish Penitential,” in *Irish Penitentials*, 265.

<sup>64</sup> Gregory II, Pope, “Epistle 64: To Augustine, Bishop of the Angli,” in *A Select Library of the Nicene and Post-Nicene Fathers of the Christian Church*, ed. Philip Schaff, p. 78.

<http://www.ccel.org/ccel/schaff/npnf213.ii.vii.xxx.html>



on Sunday, night and day, and in the two appointed week days, and after conception, and during the entire menstrual period.”<sup>65</sup> As we will see below, it is common for the authors of the penitentials to offer no punishment for sexual relations during pregnancy; however, this canon represents the only case where one finds no penance given for intercourse during menstruation. The first actual penance dispensed in the handbooks for sex during menstruation is found in the penitential of Theodore written around twenty years later; he imposes a penance of twenty days.<sup>66</sup> Following in this tradition, the Bigotian and Old Irish penitentials also prescribe a penance of twenty days for intercourse during the menstrual period.<sup>67</sup>

The most popular canon punishing sex during menstruation is first found in Bede’s penitential, written around the year 700, which gives a penance of forty days for those who are ‘incontinent’ during the time of their wives’ menstrual sickness.<sup>68</sup> The Pseudo Bede, St. Gall and Pseudo-Egbert penitentials as well as that of Regino of Prum all give a penance of forty days for marital intercourse during menstruation.<sup>69</sup>

### **Sexual Activity Surrounding Pregnancy and Childbirth:**

It is difficult to think of something more troubling to medieval ideas of sexual holiness than pregnancy. On one hand, according to St. Augustine, children are the good of marriage and the factor which redeems marital sexual intercourse. On the other hand, the conception of children does not take place without pleasure, or lust, which is

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<sup>65</sup> McNiell and Gamer, “The Penitential of Cummean,” in *Handbooks*, 105.

<sup>66</sup> McNiell and Gamer, “The Penitential of Theodore,” in *Handbooks*, 197.

<sup>67</sup> Bieler, “Bigotian Penitential” in *The Irish Penitentials*, 323. and “Old Irish Penitential” 265.

<sup>68</sup> Haddan and Stubbs, “Bede’s Penitential” in *Ecclesiastical Documents*, 329.

<sup>69</sup> Wasserscheleben, “Pseudo Bede” in *Bussordnungen*, 262; “Confessionale Pseudo-Egberti” 307; Wasserscheleben, “Poenitentiale XXXV Capitulum” in *Bussordnungen*, 511; Regino of Prum, 145.

inherently sinful. Conception, childbirth and the ensoulment of the child takes place within the female body – the ultimate, dangerous, locus of lust. In this way the necessary separateness between the spiritual and corporeal requisite for holiness is violated since a pregnant woman was the very essence of sexual sin. She is the embodiment of the sin inherent in sexual pleasure and of the original sin perpetrated by Eve.<sup>70</sup> Pregnancy and childbirth represented a spiritual danger to the woman in question and to her husband. Some saw the period of time immediately following childbirth as one in which women were potentially more susceptible to evil influences.<sup>71</sup> One eleventh-century prayer that might be said over a new mother's room is a good indication of this. The priest would say, "I commend in holy and singular custody to you [God] the soul and body of your servant, and all her thoughts and acts that you may protect her from evil spirits, that she should never cross over into their power- neither now nor in the future."<sup>72</sup> It is possible, then, that medieval prohibitions on sexual intimacy pre- and post- partum reflect fears that a woman's heightened corruptibility at this time could spread to her husband, while they certainly relate to the fact that sex during pregnancy and lactation is non-procreative. Because pregnancy violates the separateness necessary to medieval ideas of holiness so spectacularly, there needed to be checks in place to contain the danger presented by this transgression of boundaries and to return the woman to her 'safe' state once the baby was born. Much of the medieval traditions and the ideas expressed in the penitentials stem from the prohibitions set forth in Leviticus, which says

If a woman has conceived seed, and born a man child: then shall she be unclean Seven days...and she shall then continue in the blood of her purifying three and Thirty days; she shall touch no hallowed thing, nor come into the sanctuary, until

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<sup>70</sup> Elliot, 4.

<sup>71</sup> Ibid., 5.

<sup>72</sup> Quoted in *ibid.*, 5.

The days of her purifying be fulfilled. But if she bear a maid child, then she shall  
Be unclean two weeks, as in her separation; and she shall continue in the blood  
Of her purifying threescore and six days.<sup>73</sup>

At the end of this time the new mother was supposed to bring an offering to the door of the temple, after which she would be fully readmitted to society. It was out of the traditions outlined above that medieval churching rituals developed, which by the eleventh century “had evolved into a full-blown penitential ritual involving the complete prostration of the mother...”<sup>74</sup> At the beginning of the ritual the woman would kneel just outside the church door while the priest prayed over her and sprinkled her with holy water.<sup>75</sup> This could be seen as symbolic of bathing and as a means of containing the pollution brought on by childbirth. Nevertheless, the liturgy was a means for safely reintegrating the woman into society and into the normal control structure.<sup>76</sup>

Since pregnancy and childbirth in and of themselves are the embodiment of sexual sin and, according to the Bible, require a kind of penance for their own sake, it stands to reason that the penitential handbooks would uniformly penance sexual relations during pregnancy. This is one topic, however, in which the penitentials show themselves less as works of a theological and canonical nature and tend to emphasize more their practical nature. Put simply, most married couples simply were not going to abstain for nine months. It is presumably for this reason (although it is impossible to say since none is given) that many of the handbooks which mention sex during pregnancy do not give

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<sup>73</sup> Lev. 12: 2-5

<sup>74</sup> Elliot, 5.

<sup>75</sup> Paula M Rider, “Insecure Borders: Symbols of Clerical Privilege and Gender Ambiguity in the Liturgy of Churching,” in *The Material Culture of Sex, Procreation and Marriage in Premodern Europe*, eds. Anne L McClanan and Karen Rosoff Encarnación, (New York: Palgrave, 2002), 94.

<sup>76</sup> Ibid., 95.

any penance for it. This is, in fact, the largest single trend with regard to the treatment of this topic in the penitentials. Out of the twenty three handbooks examined in this study, thirteen prohibit sex during pregnancy. Out of those thirteen handbooks, six forbid it but offer no punishment for it, a situation which is totally unique in the penitentials with regard to sexual sins. The penitentials of Finnian, Cummean and Pseudo-Egbert, as well as the Bigotian penitential, the *Collectio Canonum Hibernensis*, and the Old Irish penitential all contain canons regarding abstention surrounding pregnancy and childbirth, but do not provide penances should expecting couples be unable to be continent.<sup>77</sup> While most of the canons regarding pregnancy and childbirth concern themselves with sex both pre- and post-partum there are some exceptions. The penitential of Finnian says only, "...and after the wife has conceived he shall not have intercourse with her until she has borne her child, and they shall come together again for this purpose..."<sup>78</sup> Conversely, the penitential of Theodore only concerns itself with sexual relations post partum. Specifically, it says, "In the same way shall they do penance who enter a church before purification after childbirth, that is, forty days. But he who has intercourse at these seasons shall do penance for twenty days."<sup>79</sup> This canon, from the penitential of Theodore is also the first time one finds sexual relations during pregnancy penanced in the handbooks. Bede's penitential offers the harshest penalty for sex during pregnancy or following childbirth at 40 days.<sup>80</sup> A new canon appears in the Pseudo Bede penitential which is used in a few later handbooks which states that a woman ought to abstain from

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<sup>77</sup> McNiell and Gamer, "The Penitential of Finnian," in *Handbooks*, 96; "The Penitential of Cummean", 105; Wassersleben, "Confessionale Pseudo-Egberti" in *Bussordnungen*, 307; Hermann Wassersleben, *Die irische Kanonensammlung*, (Aalen: Scientia-Verlag, 1966), 215; Bieler, "Bigotian Penitential" in *The Irish Penitentials*, 323. and "Old Irish Penitential" 265.

<sup>78</sup> McNiell and Gamer, "The Penitential of Finnian," in *Handbooks*, 96.

<sup>79</sup> "The Penitential of Theodore" in *Ibid.*, 197.

<sup>80</sup> Haddan and Stubbs, "Bede's Penitential" in *Ecclesiastical Documents*, 329.

her husband for three months when she is pregnant, before the birth and after she gives birth for forty days. If they have sex during that time they should do penance for anywhere from twenty to forty days.<sup>81</sup> The same canon appears with minor variations in the penitentials of Egbert, St. Gall, Regino of Prum and the Fleury penitential.<sup>82</sup>

Most of the references to sex during menstruation or surrounding pregnancy and childbirth in the penitentials are clustered after about 700, although that is by no means an overwhelming pattern. By far the most interesting pattern to be found with regard to sex during pregnancy and immediately after is geographical. Eight of the handbooks under consideration here are of Irish origin, of those eight, three do not even mention sex pre- and post-partum and the five which do offer no penance for it. The Anglo Saxon penitentials, on the other hand, all make mention of this issue and all but one offer a punishment for it. This difference could be reflective of the fact that the Anglo Saxon penitentials are fairly exhaustive, but should not be solely attributed to that since many of the Irish penitentials could not fairly be regarded as dainty either. Size is more likely the issue with regard to the French handbooks; only three out of nine mention intercourse during pregnancy and all three penance it, as they tend to leave out a great deal.

The penitentials do show glimpses of their theoretical or theological basis amidst their plethora of practical prescriptions, even with regard to sex during menstruation or pregnancy. The penitential of Cummean, for example, substantially repeats the prohibitions of Leviticus, prescribing abstention for thirty three days following the birth

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<sup>81</sup> Wasserschleben, "Pseudo Beda" in *Bussordnungen*, 262.

<sup>82</sup> Haddan and Stubbs, "Egbert's Penitential" in *Ecclesiastical Documents relating to Great Britain and Ireland*, 423; Wasserschleben, "Poenitentiale XXXV Capitulum" in *Bussordnungen*, 511 and "Poenitentiale Floriacense", 425; Regino of Prum, 145.

of a son and sixty six days following the birth of a daughter.<sup>83</sup> However, there seems to have been a recognition that asking couples to abstain for the duration of a pregnancy was impractical and that rendering the marriage debt to prevent infidelity was more important than avoiding sex during prohibited times. This can be seen in the implicit way in which the penitentials occasionally negate the theoretical arguments in a way which would let couples who sinned in this way “off the hook.” For example, the penitential of Finnian contains a long section on the value of continence in marriage which reads:

We advise and exhort that there be continence in marriage, since marriage without continence is not lawful, but sin, and [marriage] is permitted by the authority of God not for lust but for the sake of children, as it is written, ‘And the two shall be in one flesh,’ that is, in unity of the flesh for the generation of children, not for the lustful concupiscence of the flesh...But if they shall fulfill this instruction, then they are worthy of the body of Christ...and there they shall receive the thirtyfold fruit which as the Savior relates in the Gospel, he has also plucked for married people.<sup>84</sup>

In the middle of this long section on the necessity of children to redeem marital intercourse Finnian gives his prohibition on sex during pregnancy and offers absolutely no punishment for it. It seems that despite the occasional theologically based chastisement, it was recognized that outlawing sex during pregnancy was impracticable, as was outlawing nocturnal emission or sex during menstruation. Regardless of how much theological might could be mustered against them, they were still more than likely going to happen, even more so than the other topics under consideration in this study.

Why were these things mentioned at all then? First, they were included in the handbooks because they were the source of deep seated sexual anxiety in a way that other categories of deviance could not be. Nocturnal emission and menstruation in particular represent the possibility of sexual pollution through the uncontrollable functions of the

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<sup>83</sup> McNiell and Gamer, “The Penitential of Cummean”, in *Handbooks*, 105.

<sup>84</sup> McNiell and Gamer, “The Penitential of Finnian,” in *Handbooks*, 96.

body. Examined in this light, the prescriptions in the penitentials can be seen as an attempt to regulate what cannot be regulated and therefore render it safe. This is particularly true when one considers the various scenarios given with regard to the seminal emissions of clerics. All of the variations listed are basically aimed at determining what amount of control the cleric had over the emission and determining the appropriate penance. Certainly, the fact that nocturnal emissions and menstruation at least are proscribed in the Bible and are part of inherited Judeo-Christian ideas of sexual pollution make them impossible to ignore in the penitentials. Perhaps more important in explaining the inclusion of these topics in the penitentials, however, is the fact that, unavoidable though they may be, they violate the vital separateness between the carnal and the spiritual. Unintended seminal emissions violated the sanctity of holy persons and, in some cases, holy places. Menstruation and childbirth allow for the good of marriage-offspring- but are direct reminders of humanity's fall from grace. The ensoulment of new human beings takes place within a pregnant woman – whom many medieval writers saw as a walking monument to the sin of concupiscence. These transgressors of holiness lead to sexual pollution, and in this case the penitentials can be seen as both expressive of anxieties about the inability to avoid this pollution and as a way of managing polluting circumstances and restoring purity.

*To conjugal delight  
Each kind its kind doth owe: but female still  
To all is wife; nor is there one that has  
A mother save a female one.*<sup>85</sup>

### **Irrational Fornication**

The Middle Ages saw the development of any number of euphemisms for describing deviant sexual behavior. In order to discuss the activities covered in this chapter further, it is necessary to understand the terms medieval people used in describing them. The earliest generalized term which medieval people used to describe certain types of sexual deviance is Sodomy, or rather, “the Sodomitic vice.” According to Mark Jordan, the difficulty in dealing with “sodomy” as a sexual descriptor is the term’s instability. Jordan argues that “...terms become unstable when confronted with the secrecy surrounding homoerotic practices, with the difficulty of recognizing the ‘sodomite.’ Other instabilities are produced in or around the sarcasms about effeminacy; others still, in asserting a special opposition to God in same-sex copulation.”<sup>86</sup> The invoking of Sodom to describe sexual behavior can be found first in the writings of St. Augustine; however, the “sodomitic vice” was not only the physical, sexual acts involved. Rather, Jordan argues that medieval writers saw those physical acts as “a symptom of the madness of...fleshly appetites, of the underlying delirium of their passions.”<sup>87</sup> Even by the time of the penitentials the abstract term “sodomy” was not used. Instead, most penitentials ask whether the penitent is guilty of the sodomitic vice or

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<sup>85</sup> Quoted in Paul Hallam, *The Book of Sodom*, (New York: Verso, 1993), 192-193.

<sup>86</sup> Mark D. Jordan, *The Invention of Sodomy in Christian Theology*, (Chicago: University of Chicago Press, 1997), 8.

<sup>87</sup> *Ibid.*, p. 35.



if they have copulated in the manner of the Sodomites.<sup>88</sup> For instance, in his *Decretum* Burchard of Worms<sup>89</sup> instructs confessors to ask, “Did you commit fornication as the sodomites did, so that you put your penis (*virgam*) in the back of a man and in the rear parts (*in masculi terga et in post[e]riora*), so that you copulate with him in the Sodomitic manner?”<sup>90</sup> Although Burchard is very specific about what constitutes the Sodomitic vice, such explicit explanations are in fact quite rare. Instead, most of the penitentials only ask if the penitent has committed fornication in the manner of the Sodomites, without the description that Burchard provides. A more common example can be found in the penitential of Egbert which simply says, “For the sodomites, if they have been in the habit, for a Bishop fourteen years, a presbyter twelve, a deacon ten, a subdeacon nine, a cleric seven and a layman five.”<sup>91</sup> Although the term “Sodomy” or “the Sodomitic vice” has always had a somewhat intangible meaning, within the penitentials it is probably safer than in other sources to assume the term is referring to homosexual contact of some kind. By the later Middle Ages the term came to encompass a much wider scope of activity, not necessarily homosexual. At least for the purposes of this study, references to “the Sodomitic vice” found in the penitentials will be taken as references to homosexual behavior.

Another euphemistic way of categorizing sexually “deviant” behavior was the use of the term “sin against nature.” Thomas Aquinas defined the term as including four different activities, all of which might be undertaken only for pleasure and excluded the

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<sup>88</sup> Ibid., p. 36.

<sup>89</sup> Burchard of Worms (d. 1025) wrote the *Decretum*; he was a well known canonist and Bishop of Worms. His *Decretum* which includes a penitential is not included in this study because it is German in origin. Kevin Knight, “Burchard of Worms” in *The New Advent Catholic Encyclopedia*, <http://www.newadvent.org/cathen/03064a.htm>.

<sup>90</sup> Quoted in Jordan., p. 52.

<sup>91</sup> Haddan and Stubbs, “Egbert’s Penitential” in *Ecclesiastical Documents*, 419. “Item sodomitis, si consuetudine erat, Episcopus XIV, presbyter XII, diaconus X, subdiaconus VIII, clericus VII, laicus V.”

possibility of conception. In order of gravity they were bestiality, homosexuality, non-missionary sexual positions undertaken during heterosexual intercourse, and masturbation.<sup>92</sup> He believed that the sin against nature was more serious than other sexual deviations because “since the order of nature was derived from God, its contravention was always an injury to God and thus a more serious offense than those committed against one’s neighbor or other people.”<sup>93</sup> This term, like the term sodomy, became more tenuous and vague as the medieval period wore on and came to encompass almost anything other than heterosexual marital sexual intercourse in the missionary position. The use of words like “sodomy” or “the sin against nature” or “irrational fornication” – a usage from canon sixteen of the Council of Ancyra (314) which encompasses bestiality, homosexuality, and incest<sup>94</sup> - or even ‘onanism’ may make research into medieval sexual deviance more difficult, but value lies in the fact that medieval authors imposed this vagueness for a reason.

From the early Middle Ages one concern was that through the process of confession and the employment of the penitentials, a penitent might learn new and creative ways to sin, thus negating the purpose of confession. For example, Theodulf of Orleans<sup>95</sup> admonishes confessors that they

ought not to make known to him [the penitent] all the crimes since there are so many vices recorded in the penitential which it is not proper for a person to know. Therefore, the priest ought not question him about everything, lest, perhaps, when he goes away he be persuaded by the devil to fall into one of the crimes of which he had previously been ignorant.<sup>96</sup>

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<sup>92</sup> Vern Bullough, *Sexual Variance in Society and History*, (New York: Wiley, 1976), 380.

<sup>93</sup> Ibid., 380.

<sup>94</sup> Payer, 57.

<sup>95</sup> Theodulf of Orleans (760-821) was Bishop of Orleans during the reign of Charlemagne, was a prominent theologian and author of two capitularies. Kevin Knight, “Theodulf of Orleans” in *The New Advent Catholic Encyclopedia*, <http://www.newadvent.org/cathen/14579b.htm>.

<sup>96</sup> Payer., p. 56.

This concern continued throughout the medieval period and can be found as late as 1450, when the *Summa of Vices and Virtues* offered this advice to confessors on how to avoid instructing their flock in how to sin:

Also written will I find  
That of sin against Kynde  
Thou shalt to thy parish no thing teach,  
Nor of that sin no thing preach;  
But say thus by good advice  
That too great sin forsooth it is,  
For any man that beateth life  
To forsake his wedded wife  
And do his kynde another way,  
That is great sin without nay.<sup>97</sup>

Medieval thinkers viewed the 'sin against nature' or sodomy as being akin to a disease which could spread virulently from one person to another. Albertus Magnus references this belief when he writes that sodomy was the worst of all sexual sins because "such vices were as contagious as a disease and spread rapidly from one person to another."<sup>98</sup>

The medieval association of sin with disease has already been discussed, but the association between sexual sin and contagious disease was especially strong. This relationship can be found as early as the Council of Ancyra in 314 AD which makes reference to "defilers of themselves with beasts, who are also leprous, that is, who have infected others [with the leprosy of this crime]"<sup>99</sup> The relationship between sin and viral contagion was only strengthened by the later medieval associations of sexual deviance with heresy. Catharism in particular was thought to entice its followers to engage in deviant sexual behavior as a means of avoiding procreation. The sin of heresy combined

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<sup>97</sup> Quoted in Vern Bullough, *Sexual Variance*, 385-386.

<sup>98</sup> Bullough, *Sexual Variance*, 379.

<sup>99</sup> John Fulton and Philip Schaff, "Canons of Ancyra" *Index canonum : the Greek text, an English translation, and a complete digest of the entire code of canon law of the undivided primitive church*, (New York : E. & J. B. Young, 1883), Canon XVII.

with the supposition of sexual sin was made more intimidating by the rapid spread of Catharism in certain areas.<sup>100</sup> With the perceived danger of priests helping to spread the deadly infection of sodomy, it is no wonder that medieval authors treated it with such careful circumspection in their writings. The *Summa of Vices and Virtues*, for example, says that it is a

sin so foul and so hideous that it should not be named, that is, sin against kynde, that the devil teacheth to a man or to a woman in many vices that more not be spoken, for the matter is so foul that it is abomination to speak it; but nevertheless be man or woman that be guilty thereof he must tell it openly in his confession to the priest as it was done.<sup>101</sup>

With such guarded descriptions it is no wonder that by the later middle ages both the terms sodomy and ‘the sin against nature’ had expanded to include anything which was not heterosexual intercourse in the missionary position. This vagueness presents a challenge to modern historians in discussing medieval views toward the various forms of sexual deviance they refer to, after all, it is difficult to use a word if one cannot nail down exactly what it means. For the purposes of this discussion sodomy will be taken to refer to homosexual activity, while ‘the sin against nature’ will follow the definition of St. Thomas Aquinas given above. However, to simplify matters, this chapter will discuss what the Council of Ancyra, which pre-dates the penitentials, classified as “irrational fornication”, that is, homosexuality, bestiality, and incest; and how they are treated in the penitential literature.

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<sup>100</sup> Bullough, *Sexual Variance*, 389.

<sup>101</sup> *Ibid.*, p. 386.

## Homosexuality

For medieval people, rationality was the way in which man was the image of God, it was the trait which made men superior to women in the eyes of medieval clergymen and was the saving grace of allowable sexual relations. Albertus Magnus wrote that sodomy was the worst of the sexual sins because “it proceeded from a burning frenzy that subverted the order of nature,”<sup>102</sup> or rather, it went against what medieval people saw as natural, rational sexual relations for the purpose of paying the marriage debt or having children. The major problems with homosexuality in medieval thought seemed to be three: first, that the sin lowered one from the rational image of God to the level of an animal, or second, that it lowered him to the level of a woman, and third that it was unredeemed by the good of procreation and was motivated only by irrational lust.

That through homosexual practices a man could fall from grace and be lowered to the level of an animal can be seen in the words of a twelfth century poem, which says

A perverse custom it is to prefer boys to girls,  
Since this type of love rebels against nature.  
The wildness of beasts despises and flees this passion.  
No male animal submits to another.  
Animals curse and avoid evil caresses,  
While man, more bestial than they, approves and pursues such things  
The irrational obeys reason's law;  
The rational strays far from reason.<sup>103</sup>

Another poem, attributed to Tertullian, objects to homosexuality both on the grounds that it is non-procreative and that it lowers man from his proper place as the pinnacle of creation.

Whither is passion's seed inviting you?  
To what vain end you lust? For such an end

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<sup>102</sup> Ibid., 379.

<sup>103</sup> Joyce E. Salisbury, *The Beast Within: Animals in the Middle Ages*, (New York : Routledge, 1994.), p. 83.

No creatures wed: not such as haunt the fens;  
Not stall-fed cattle; not the gaping brood  
Subaqueous; nor they which, modulant  
On pinions, hang suspended near the clouds;  
Nor they which with forth-streched body creep  
Over the earth's face. To conjugal delight  
Each kind its kind doth owe: but female still  
To all is wife; nor is there one that has  
A mother save a female one.<sup>104</sup>

That some medieval writers thought that homosexual men lowered themselves not necessarily to the level of animals but at least to the level of a woman by their behavior is also clear. To say the least, male submissiveness was not a trait that was valued in medieval society, and the submissive homosexual male was looked down upon and was thought to be turning the natural order on its head. The first century Apocalypse of Peter depicts homosexual men ("those who defile their bodies, behaving like women") and women ("those who have sex with one another as a man with a woman") jumping off a cliff in hell only to be forced back up to jump again, constantly changing directions because of the reversal of nature their sin entails.<sup>105</sup> Clement of Alexandria also saw homoerotic relationships as violating the natural order. Specifically, the passive male partner, or both female partners, were rejecting their culturally perceived ideal sexual roles. Clement's problem with male homosexual activity seems to lie in the loss of status a passive role required. The passive male is "giving up a greater similarity to Christ or the right to rule or to be strong."<sup>106</sup> That is, they willingly took on a clearly inferior role which took them further from their place as the image of God. Both female partners fall

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<sup>104</sup> Quoted in Paul Hallam, *The Book of Sodom*, (New York: Verso, 1993), 192-193.

<sup>105</sup> Bernadette J. Brooton, *Love between women : early Christian responses to female homoeroticism*, (Chicago: University of Chicago Press, 1996), 306.

<sup>106</sup> *Ibid.*, pp. 324-325.

outside the social ideal not because they give up a greater social role but because whether active or passive they pervert their role as “the receptor of the husband’s seed.”<sup>107</sup>

### **The Penitentials**

The penitentials hold true to their tendency to be fairly specific when dealing with homosexual activity. That being said, they are interested in homosexuality as an activity and not in homosexuals per se. The only possible exceptions to this trend are occasional references to “sodomists” which could refer to males who practice homosexual anal intercourse on a regular basis, but as has already been discussed, the word is too broad to conclusively say that it refers only to that group and not to a larger class of sexual deviants. A canon in the penitential of Theodore refers to “molles” which is taken to mean “the effeminate man” or men who take the passive role in sexual relations; however, the reference appears only very rarely and shouldn’t be used to conclude that the authors of the penitentials were concerned with groups of people rather than sexual practice.<sup>108</sup>

There are several traditions dealing with homosexuality to be found in the penitentials. The earliest of these appears in the penitential of Columban which dates to around the year 600. It lists sodomy as being among the capital offenses and the canon says “But if one commits fornication as the Sodomites did, he shall do penance for ten years, the first three on bread and water; but in the other seven years he shall abstain from wine and meat, and [he shall] not be housed with another person forever.”<sup>109</sup> This particular canon shows up in only two of the eight Irish penitentials examined here,

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<sup>107</sup> Ibid.

<sup>108</sup> Payer, 40.

<sup>109</sup> McNeill and Gamer, “The Penitential of Columban” in *Handbooks*, 252.

although it seems to have been relatively more popular in England and France as it is included in 40% of the Anglo Saxon penitentials under study here and 66% of the Frankish books. The canon's proscription of the penitent ever living with another person hints at the fact that medieval life put men and boys into situations which encouraged homosexual behavior. The penitentials were originally developed in a monastic setting, where the penitents would all be housed in the same building with other men, and no acceptable sexual outlet. John Cassian provided this advice for avoiding homosexuality in ascetic life

They take very great care lest any of them [monks] spend even the briefest time alone with another monk, particularly a younger one, and they are scrupulous never to go into a private place together nor hold each others hands...No one thus guilty is permitted to attend Office with the monks again until he has purged his guilt by public penance before all the assembled brothers.<sup>110</sup>

That homosexual relationships were relatively commonplace in monastic life was a recognized problem within the Church is illustrated by the rather ferocious attack on clerical homosexuality which comprises Peter Damian's *Book of Gomorrah*. One particular problem, as he saw it, was the practice of keeping homosexual activity a secret within the monasteries and of avoiding punishment for it by the practice of homosexual monks confessing to each other. Of this Damian wrote "it is a precept of the law that when a person is covered with leprosy he be shown to the priests. Now, however, he is shown to the leprous."<sup>111</sup>

It was not only the monks whose way of life encouraged homosexual activity. The elite, warrior society of the early Middle Ages also encouraged homosexuality among fighting men. At a time when the ability to thrive socially, politically and economically

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<sup>110</sup> John Cassian, *Institutes*, 2.15.

<sup>111</sup> Peter Damian, *The Book of Gomorrah: An 11<sup>th</sup> century Treatise against Clerical Homosexual Practices*. trans. Pierre Payer, (Waterloo, Ont., Canada : Wilfrid Laurier University Press , 1982), 43.



depended on armed combat by single or small groups of fighting men “personal traits associated with hand-to-hand military combat and its associated ethical code are culturally elevated and acquire erotic significance for men as well as women.”<sup>112</sup> The fostering system also encouraged the formation of homoerotic relationships. Young boys of noble birth would be sent to train under an older knight and would form a very tight-knit group that shared affection up until they married at around age thirty.<sup>113</sup> Particular aspersion would be cast on this practice later in the Middle Ages as a fostering ground for homosexual love.<sup>114</sup> The encouragement which the lifestyles of the early medieval elite gave to the development of homosexual relationships has led some scholars to assert that it is “plausible that homosexuality was common and accepted in the early and high Middle Ages among the knights and nobility in Europe and England.”<sup>115</sup> While it is true that early medieval literature often portrayed these intense same-sex friendships positively, around the twelfth century that positive representation changed. Mathew Kuefler argues that as a way of bringing the rather untamed nobility under the direction of the ever strengthening arms of Church and state that clerical writers sought to “weaken the bonds of male solidarity encouraged by military culture” and to undermine the centrality of those relationships in the political culture by “using the suspicion that these friendships were nothing more than a cover for sodomy.”<sup>116</sup> Just one example of this new suspicion cast on militant male camaraderie can be found in the twelfth century *Roman d’Énéas*. When Énéas goes off to fight in a military campaign, Lavine thinks that:

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<sup>112</sup> David F. Greenberg and Marcia H. Bystryn, “Christian Intolerance of Homosexuality” in *American Journal of Sociology*, v. 88 no. 3 (Nov. 1982), 531.

<sup>113</sup> *Ibid.*, p. 532.

<sup>114</sup> Mathew Kuefler, “Male Friendship and the suspicion of Sodomy in twelfth century France”, in *The Boswell thesis : essays on Christianity, social tolerance, and homosexuality*, (Chicago: University of Chicago Press, 2006), 89.

<sup>115</sup> Greenberg and Bystryn, 532.

<sup>116</sup> Kuefler, 181.

A woman is very little to him, he would rather sport with a boy, he loves none but male whores...He has been rutting for a very long time, in the middle of sporting with a boy...Many of them he has in his service, and their breeches are lowered: thus they earn their wages.<sup>117</sup>

In short, the development of courtly love which accompanied this new, dim view of close same-sex friendships required that the ideal knight compete for the affections of noble ladies. The emphasis on competition and heterosexuality undermined the old ideal of knighthood, that is, groups of men who engaged in warfare together but who shared bonds of mutual affection or at least a strong camaraderie- a way of life which was increasingly publicly recognized as being conducive to the development of homosexual relationships.<sup>118</sup> So by stipulating that the penitent never again be housed with, or depending on the variation, sleep with another person is meant to exclude the offending individual from the rather tempting world of constant, close male companionship to the greatest extent practicable.

Two more traditions appear in the penitentials about fifty years after the first, in the penitential of Cummean. In his section on the misdemeanors of boys he wrote "A small boy misused by an older one, if he is ten years of age, shall fast for a week; if he consented, for twenty days."<sup>119</sup> This somewhat less than compassionate canon appears in only seven of the handbooks in this study almost all of which were written after the first quarter of the eighth century. The second tradition introduced in the penitential of Cummean originally called for one to four years for homosexual practices, saying "Men guilty of homosexual practices, for the first offense, a year; if they repeat it, two years. If they are boys, two years, if men, three or four years; but if it has become a habit, seven

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<sup>117</sup> Ibid., p. 185.

<sup>118</sup> William Burgwinkle, *Sodomy, masculinity, and law in medieval literature : France and England, 1050-1230*, (New York: Cambridge University Press, 2004), p. 4.

<sup>119</sup> McNeill and Gamer "The Penitential of Cummean" *Handbooks*, 113.

years, and a method of penance shall be added according to the judgment of this priest.”<sup>120</sup> in one canon. He assigns a penance of twenty to forty days for mutual masturbation in another canon which reads “But boys of twenty years who practice masturbation together and confess [shall do penance] twenty or forty days before they take communion. If they repeat it after penance, on hundred days; if frequently, they shall be separated and shall do penance for a year.”<sup>121</sup> Although Cummean also addressed interfemoral intercourse and fellatio in his penitential, it is the two canons given above that frequently occur together in the penitential handbooks until the early ninth century at which point it seems to evolve into a canon prescribing one year of penance for femoral intercourse and two years for anal intercourse if the perpetrators are boys, three years if they are men. The differing penances given for boys and men is a reflection of the fact that medieval people believed that at least lightweight homosexual behavior as well as bestiality were things that a person should grow out of as he aged. This is particularly true once a man has married, and the penitentials often reflect harsher penances, if not for homosexuality, certainly for bestiality for men that have a culturally sanctioned sexual outlet. The precedent for setting graded penances for irrational fornication in general goes back at least to the Council of Ancyra which said:

Let those who have been or who are guilty of bestial lusts, if they have sinned while under twenty years of age be prostrators fifteen years...And if any who have passed this age and had wives, have fallen into this sin, let them be prostrators twenty-five years...And if any married men of more than fifty years of age have so sinned, let them be admitted to communion only at the point of death.<sup>122</sup>

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<sup>120</sup> McNeill and Gamer, “The Penitential of Cummean” in *Handbooks*, 113.

<sup>121</sup> Ibid.

<sup>122</sup> John Fulton “Canons of Ancyra” in *Index Canonum* Canon XVI.

This canon could be taken to refer to only bestiality, but it has been interpreted as referring to all three forms of irrational fornication as indeed seems likely as the next canon refers explicitly to “defilers of themselves with beasts”<sup>123</sup> and assigns a different penance. That canon would be redundant if the one given above was meant only to refer to bestiality.

Although very little attention is paid in the penitentials to women as sexual agents rather than sexual objects, the first reference in them to lesbianism is to be found in the penitential of Theodore, written at the end of the seventh century. He wrote only that “If a woman practices vice with a woman, she shall do penance for three years.”<sup>124</sup> The canon is quite rare, appearing in only four of the books examined here, three of which are Anglo-Saxon in origin and most of which were written around the turn of the eighth century. The penitentials attributed to Bede both contain a canon directed toward nuns who engage in homosexual relationships in which they employ a phallic device of some kind. The canon imposes a penance of seven years, which is similar to what many penitentials prescribe for men who engage in sodomy.

That lesbian relationships did form within the convents in medieval Europe is clear. St. Augustine warned a community of nuns that while they should have spiritual love for each other they must not share carnal love. As a way of ensuring their continued purity Augustine recommended that the nuns go to the baths only once a month and then in groups of three or more.<sup>125</sup> A poem from a nun to her female lover says

When I recall the kisses you gave me,  
And how with tender word you caressed my little breasts,  
I want to die

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<sup>123</sup> Ibid. Canon XVII.

<sup>124</sup> McNeill and Gamer, “The Penitential of Theodore”, in *Handbooks*, 185.

<sup>125</sup> Brooten, 350-351.

Because I cannot see you.<sup>126</sup>

Despite the apparently tender feelings of the lesbian lovers, lesbianism was extraordinarily looked down upon in the Middle Ages. The ninth century Archbishop Hincmar of Rheims wrote about lesbians that “They do not put flesh to flesh in the sense of the genital organ of the one in the body of the other, since nature precludes this, but they do transform the use of the member in question into an unnatural one, in that they are reported to use certain instruments of diabolical operation to excite desire.”<sup>127</sup> This passage is reflective of the two great problems that medieval thinkers had with lesbianism, in fact, with any homoerotic relationships at all: they were non-procreative, and they were driven by overwhelming lust. Hincmar emphasizes that nature prevents lesbians from inserting one genital organ into another- the act that is required to produce offspring. He says that they “transform the use of the member in question into an unnatural one” that is, the female member is meant to be used for the bearing of children and should never be engaged in any kind of dominant behavior. As far as the perception that homosexual relationships were thought to be motivated by uncontrolled, unreasoning lust, Hincmar’s description of “instruments of diabolical operation to excite desire” certainly brings that idea across. A sixth century French poet demonstrated both lines of thought particularly well when he wrote

You, strange mixture of the female gender,  
Whom driving lust makes a male,  
Who love to fuck with your crazed cunt.  
Why has pointless desire seized you...  
You service a cunt.<sup>128</sup>

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<sup>126</sup> E. Ann Matter, “My sister, My spouse: Woman-Identified Women in Medieval Christianity”, in *The Boswell thesis : essays on Christianity, social tolerance, and homosexuality*, ed. Mathew Kuefler (Chicago: University of Chicago Press, 2006), 153-4.

<sup>127</sup> Ibid. 159-160.

<sup>128</sup> Quoted in Ibid., 160.

The references to pointless desire clearly refer to the fact that lesbian relationships could not result in offspring, while the references to driving lust and crazed cunts clearly demonstrate the perceived irrationality and danger to the social order from what was perceived as uncontrolled feminine sex drive.

Although many, if not all, of the penitentials offer different prescriptions for people who engaged in homosexual acts from the few presented here, these few represent the most prevalent patterns to be found in the texts. There are always outliers and peculiarities. Enough so that Peter Damian<sup>129</sup> felt that the penitentials themselves encouraged homosexuality in particular and sin in general. He wrote

Are these [books] not deservedly to be compared to monsters, not monsters resulting from nature but made by human industry, some of which begin with horses' heads and end with goats' hooves? With what canons, with what decrees of the fathers do these mockeries agree which are mutually discordant as well as being echoes from a horned brow? Are they not at variance with themselves? By what authorities are they supported?...As with a chimerical monster which looks like a lion, here he emits terrible threats, there he humbly blesses the head of the evildoer.<sup>130</sup>

Aside from assertions about the demonic origins of the handbooks, Damian is correct in identifying the disparity of penances for the same crime as a weakness of the penitentials. For example, the Pseudo-Egbert penitential gives a penance of fifteen years for sodomy, a guideline which was probably taken from the council of Ancyra, while Pseudo Bede prescribes anywhere from one to fifteen years for homosexual activity. The Old Irish penitential even ignores the homosexual relationships of adults all together and only gives penances for young boys, which could also be an indication that they were expected to leave that behavior behind when they reached adulthood. In general,

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<sup>129</sup> Peter Damian (1007-1072) was a monk, cardinal and zealous church reformer. Kevin Knight, "Peter Damian" in *The New Advent Catholic Encyclopedia*, <http://www.newadvent.org/cathen/11764a.htm>.

<sup>130</sup> Damian, *Gomorrhah*, 52-53.

however, the penances for homosexuality reach a peak in relative harshness around the turn of the eighth century, also the time at which most of the canons concerning lesbian behavior can be found. The penitential of Theodore seems to be the beginning of a pattern of assigning sodomy the highest numerical penance for a sexual sin within his penitential, a practice which seems to fall off a little after the turn of the ninth century. The only exception to this is found in the Excerpts from a Book of David, written in the first part of the sixth century which states “Those who commit fornication with...a beast, or with a male, for the remainder [of their lives] dead to the world shall live unto God,”<sup>131</sup> a prescription that probably means that the penitent was required to take up an ascetic lifestyle for the remainder of his life. The prescription didn’t seem to catch on for homosexuality, however, probably because it is fairly impractical. Boswell has written that “some authors have inferred from the elaborate prescriptions regarding homosexual relations in the ‘penitentials’ that the early medieval church was obsessed with punishing homosexual behavior. This conclusion is unwarranted.”<sup>132</sup> Indeed, to go so far as to call the persecution of homosexuals an obsession is unwarranted, however, neither should we be feel that the early medieval Church was sympathetic to homosexuals, as Boswell seems to believe. In fact, he asserts that “the Christian hierarchy in the seventh through tenth centuries considered homosexual behavior no more (and probably less) reprehensible than comparable heterosexual behavior.”<sup>133</sup> This conclusion is simply not borne out by the penitential handbooks, nor is his assertion that homosexual activity and heterosexual adultery often received the same penances. The penitential of Cummean

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<sup>131</sup> McNeill and Gamer, “Excerpts from a Book of David” in *Handbooks*, 173.

<sup>132</sup> John Boswell, *Christianity, social tolerance, and homosexuality : gay people in Western Europe from the beginning of the Christian era to the fourteenth century*, (Chicago: University of Chicago Press, 1980), 180.

<sup>133</sup> *Ibid.*, 179.

gives sodomy a penance of up to seven years, while adultery garners a penance of anywhere from one to three years.<sup>134</sup> Theodore prescribes up to fifteen years for sodomy and only four for adultery.<sup>135</sup> The penitential of Columban and the Burgundian penitential both require ten years of penance for Sodomy and only three years for an adulterous relationship which results in the birth of a child.<sup>136</sup> Boswell also asserts that the Church was reluctant to create any legislation against homosexuality saying that

Almost without exception the few laws against homosexual behavior passed before the thirteenth century were enacted by civil authorities without advice or support from the Church. Occasionally ecclesiastical councils or authorities ratified such enactments, often under duress, but purely ecclesiastical records usually stipulate either no penalty at all or a very mild one.<sup>137</sup>

All of these statements seem to be geared toward the assertion that the early medieval church had some sort of systematic compassion for homosexuals. He fails to take into account that most of the proscriptions against homosexuality dating from before the thirteenth century were generated by the Church, independent of any secular pressure. The penitentials originated as confessional guides to be used in monasteries, the earliest of them can arguably be said to be ‘purely ecclesiastical’ and they do not treat homosexuality lightly, nor do the Canons of Ancyra. The twelfth century Council of Napolouse can hardly be said to be free of secular influence, however, it was a church council, and it was the first body to condemn sodomites to be burned to death. It said that if any “sodomist, before he is accused, shall come to his senses, and having been brought to penitence, shall renounce that abominable vice by the swearing of an oath, let him be

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<sup>134</sup> McNeill and Gamer “The Penitential of Cummean” in *Handbooks*, 103-104.

<sup>135</sup> McNeill and Gamer “The Penitential of Theodore” in *Ibid.*, 184-185.

<sup>136</sup> McNeill and Gamer “The Penitential of Columban” in *Ibid.*, 253-254. And “The Burgundian Penitential” in *Ibid.*, p. 274.

<sup>137</sup> Boswell, 174.



received into the Church and dealt with according to the provisions of the canons.”<sup>138</sup> A second offense and subsequent request for penance would result in the penitent being sent into exile. If the accused sodomist did not repent he would be handed over to the civil authorities and burned. The council did not turn out to have any real effect, but the sentiment was still there.<sup>139</sup> If anyone can be said to have been, if not compassionate, then ambivalent about homosexuality during the early Middle Ages it would be the secular authorities. During much of this time, the Germanic law codes dealt with sexual crime in terms of property damage. If one seduced a neighbor’s daughter they had to pay the wergeld to make up for the difficulty the girl’s father would have had in marrying her off. It is difficult to see homosexual activity in the same terms, which could account for the fact that secular laws against homosexuality were exceedingly rare in the early Middle Ages, whereas clerical prohibitions were decidedly not.

### **Bestiality:**

Bestiality, like homosexuality seems to have originally been perceived as the activity of young men and boys. Although his research was done in the twentieth century, I believe certain conclusions from the research of Alfred Kinsey can be extrapolated into the Middle Ages. As far as human sexuality goes – the more things change, the more they stay the same; that is, most of what people do in their bedrooms today was done in the Middle Ages and even in the classical period. Human beings are creative and sex is a great motivator for innovation, so it would be naïve to believe that the Middle Ages knew no lesbian relationships or that people didn’t know oral sex was fun. The major factor

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<sup>138</sup> Quoted in Bullough, *Sexual Variance*, 383.

<sup>139</sup> Ibid.

that changes the sex lives of average people is what kind of sexual outlet they have access to. Early medieval Europe was a largely agrarian society, therefore I believe that with respect to Kinsey's findings on bestiality in mid-twentieth-century America, we can assume somewhat higher instances of that activity in medieval Europe. Kinsey emphasized that among his modern test subjects "the absolute frequencies of animal contact are, in actuality, low. In a high proportion of the histories they are isolated occurrences, or events that happen two or three or a half dozen times in the boy's early adolescence."<sup>140</sup> He does, however, repeatedly state that the more rural the area, the higher frequency of animal contact. He says that a minimum of forty to fifty percent of rural men have had some kind of animal contact. He also suggests that those numbers would be just as high for the whole male population given greater access to farm animals, perhaps the same level of access that medieval men would have had.<sup>141</sup>

Medieval views of bestiality can best be understood as the continuous negotiation of a set of boundaries. The animal/human boundary, the Christian/pagan (or in some cases demonic) boundary, the masculine/feminine boundary all played into how medieval people thought about sexual intercourse with animals. The changing of the animal/human boundary can be seen as a type of pendulum swinging back and forth between humans perceiving animals as similar to themselves and perceiving them as simply objects. In Greek and Roman antiquity animals were often thought to have traits similar to human beings; they believed that their gods occasionally took the form of animals and mated with humans while in animal form. Aelian's *On the Characteristics of Animals* includes

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<sup>140</sup> Alfred C. Kinsey, *Sexual Behavior in the Human Male*, (Philadelphia: W.B. Saunders Co., 1948), p. 463.

<sup>141</sup> *Ibid.*, 671.

multiple stories in which animals are given human motives, such as love or jealousy.<sup>142</sup> The myths that came from this time created a strong connection in the medieval mind between interspecies intercourse and paganism, a tie which would later evolve into associations with the demonic. By the Germanic period, animals were perceived as distinctly different from humans; they were property, little better than an inanimate object. Early Germanic law codes did not prohibit bestiality not because inter-species sexual contact did not occur but because “no one cared” whether it did or not. Rather, the prohibitions which developed later can be viewed as a direct result of the Christianizing of the Germanic elite. “As soon as Christian legislation appeared, prohibitions against bestiality appeared...one motivation might have been to abolish anything that was ‘pagan’ in order to define more clearly that which was Christian.”<sup>143</sup> The early Germanic codes were largely concerned with real damage to people or property. Apparently, violating a cow did not prevent its further use and did not cause sufficient damage to require legal action. As the early Middle Ages wore on, however, the pendulum began to shift back, and there was a blurring of the lines between animal and human.<sup>144</sup> The discomfort medieval people felt over where the line between human and animal sexuality lay is demonstrated by the fact that they expressed admiration for elephants whose copulation they believed occurred without lust, and bears, which they believed had sex face to face thus making them seem more human-like.<sup>145</sup> The same unease about the

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<sup>142</sup> Salisbury, 85.

<sup>143</sup> Ibid., 87.

<sup>144</sup> Ibid. 91.

<sup>145</sup> Ibid., 83.

human/animal boundary can be seen in the work of Gerald of Wales<sup>146</sup> who wrote about two women who purportedly had sexual relations with animals. In one story he writes

The wretched woman, proving herself more a beast in accepting him that he did in acting, even submitted herself to his abuse. How unworthy and unspeakable! How reason succumbs so outrageously to sensuality! That the lord of the brutes, losing the privileges of his high estate should descend to the level of the brutes, when the rational submits itself to such shameful commerce with a brute animal!<sup>147</sup>

Clearly, Gerald is most bothered by the fact that the woman made herself like an animal, or by the blurring of the boundary between man and beast. An exemplum from the thirteenth century is even more explicit in chastising those who would cross that boundary. It says

A man who had sinned in a bestial manner wished to do penance in like manner and so ate grass frequently every day. After a time, he began to wonder to what order of angels one would belong who had done such penance. An angel answered him: 'By such a life you do not deserve to belong to the order of the angels, but rather to the order of the asses.'<sup>148</sup>

Aside from blurring the lines between animal and human and between Christian and pagan, bestiality also blurred the lines between the masculine and feminine and the Christian and the demonic. In many instances, particularly in the Icelandic sagas accusations of same sex bestial intercourse are used to cast aspersions on the masculinity of the accused and usually to spur them to violence.<sup>149</sup> A mid-twelfth century description of hell says

All of the men and the women who descended into the swamp were actually made pregnant by the beast...the offspring they conceived stung them in their entrails

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<sup>146</sup> Gerald of Wales (c. 1147-1220) was a medieval writer and welsh cleric, the quote below comes from one of his best known works, written after accompanying prince John to Ireland. . Kevin Knight, "Gerald of Wales" in *The New Advent Catholic Encyclopedia*, <http://www.newadvent.org/cathen/06568d.htm>.

<sup>147</sup> Gerald of Wales, *The History and Topography of Ireland*, (New York: Penguin Books, 1982), 75.

<sup>148</sup> Quoted in Salisbury, 96.

<sup>149</sup> Ibid., 95.

like vipers...these beasts that were born had burning iron heads and the sharpest beaks, with which they tore the body to pieces whenever they came out.<sup>150</sup>

In this particular instance the men were thoroughly feminized through their sexual associations with presumably some kind of demonic beast. From the twelfth century on the devil or demons were often depicted as wholly or part dog, snake or goat, so that the “serious, heretical crime of intercourse with the devil was thus linked with the earlier seemingly innocuous act of intercourse with an irrelevant object.”<sup>151</sup> Because of these associations bestiality, much like homosexuality, came to be linked with heresy and witchcraft.<sup>152</sup>

In terms of medieval attitudes toward bestiality, the penitentials can best be seen as an attempt to reinforce the animal/human boundary by reigning in the more bestial aspects of human sexuality, which medieval thinkers believed were totally attributable to uncontrolled and irrational lust. If reason was the dividing line between the human and the bestial, the penitentials sought to correct those forms of sexual intercourse which were not subject to reason, that is, that were non-procreative. Since bestial intercourse does not even involve two mates of the same species, it was often among the sexual sins at the top of that list.

The first tradition regarding bestiality to occur in the penitentials requires the penitent to enter a monastery until their death. This prescription appears in only four handbooks and seems to have been given only where the author associates bestiality with sodomy rather than masturbation. In many cases, where this penance is given, the reference to bestiality and sodomy is given within the same canon. Two more traditions

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<sup>150</sup> Quoted in *Ibid.*, 97.

<sup>151</sup> *Ibid.*, 98.

<sup>152</sup> *Ibid.*

originate in the penitential of Columban written around the year 600. The first says “If anyone practices masturbation or sins with a beast, he shall do penance for two years if he is not in [clerical] orders; but if he is in orders or has a [monastic] vow, he shall do penance for three years unless his [tender] age protects him.”<sup>153</sup> Columban’s first canon appears in fully half of the penitential handbooks which deal with bestiality, although it evolved into a penance of just two years with the apparent penitent sometimes a cleric and sometimes not. The second new tradition given in Columban comes from a canon that says “But if any layman commits fornication with a beast, he shall do penance for a year if he has a wife; but if he has not, for half a year. So also shall he do penance who, having a wife, practices masturbation.”<sup>154</sup> This canon appears in only three penitentials and the grading of the penance based in the marital status of the penitent is probably modeled on the canon from the Council of Ancyra. The final major tradition on bestiality in the penitentials can be found beginning in the mid seventh century in the penitential of Cummean. It says “A boy who takes communion in the sacrament although he sins with a beast, one hundred days.”<sup>155</sup> This canon appears in about one third of all the penitentials which deal with bestiality or is sometimes given as part of a canon which gives a range of between one hundred days and ten years; the lower end being for boys and the higher for grown men. This last canon, together with the one which provides a graded penance based on the marital status of the offender, is reflective of the fact that medieval people expected young men to grow out of the practice of bestial intercourse. In fact, Alfred Kinsey has determined that most of this type of behavior occurs in groups of boys in

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<sup>153</sup> McNeill and Gamer “The Penitential of Columban” in *Handbooks*, 253.

<sup>154</sup> Ibid. 254.

<sup>155</sup> “The Penitential of Cummean” in Ibid., 113.

isolated areas and declines rapidly as men reach their early twenties and find more acceptable sexual outlets.<sup>156</sup>

Overall, the type of penance given in the penitentials for bestiality depended almost entirely on whether the author associated it with masturbation or with sodomy. The general trend is that it was initially penanced fairly lightly until about the turn of the ninth century, at which point the association with sodomy seems to have become stronger and many authors began recommending penances which were among the most severe for any sexual indiscretion. In fact, this change coincides rather nicely with another change in attitudes toward bestiality, with respect to the animal partner. As early as the mid eighth century, one can find recommendations that the animal partner be killed and the body discarded, a stipulation that comes from Leviticus 20:15. By 1090 Ivo of Chartres required that the animal be killed not to punish it but to remove any further temptation by destroying the memory of the act.<sup>157</sup> Still later, Gerald of Wales wrote of a lion who was killed for having sexual relations with a woman, saying "The beast is ordered to be killed, not for the guilt, from which he is excused as being a beast, but to make the remembrance of the act a deterrent, calling to mind the terrible deed."<sup>158</sup> Joyce Salisbury has argued that explanations such as these are indicative of insecurity about the animal/human boundary and that they reflect the doubts that medieval people had about the animal's level of culpability in sexual sin. "On the one hand, they believed animals to be sufficiently involved in the sexual act to deserve some punishment, but on the other hand to treat animals as equally blameworthy would be to violate the desired separation that

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<sup>156</sup> Kinsey, 463, 675.

<sup>157</sup> Salisbury, 92-93.

<sup>158</sup> Gerald of Wales, 76.

was the point of much of this increasing legislation.”<sup>159</sup> It is likely that the move toward harsher penances for bestiality came out of a greater perceived culpability on the animal’s part, thus making the act more akin to sodomy than to masturbation.

As has been shown, bestiality was the subject of some rather conflicted impulses in the early medieval period, common though it may have been. In the popular imagination, it was associated with paganism and later with heresy and devil worship. It could be seen as a sexual outlet for rowdy boys or as a feminizing stigma on grown men. It could be seen as the use of an irrelevant object for masturbatory purposes or as an unnatural union of two cognizant beings. It is because of this wide disparity of conflicting views on the matter that an activity which was probably fairly common was subject to such disparate regulations in the penitential literature.

### **Incest:**

The Middle Ages saw the development of a system of extremely stringent incest regulations. These regulations were formed in large part during the early Middle Ages and were essentially based on the prohibitions found in Leviticus. The book states that anyone who sleeps with a step-parent, daughter-in-law, or a mother-in-law should be put to death; that anyone who has relations with a sister or stepsister “shall be cut off in the sight of their people” and that anyone who has sex with a sister, stepsister, aunt, or sister-in-law will “bear iniquity and die childless.”<sup>160</sup> Although the prohibitions in Leviticus were in large part responsible for the core of medieval anti-incest legislation, it is also

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<sup>159</sup> Salisbury, 93.

<sup>160</sup> Leviticus 20:11-20:21.



necessary to examine the development of incest laws within the framework of the development of sacramental marriage.

Essentially, the medieval Church really struggled to gain moral and legal authority over marriage, particularly among the nobility. Over the course of the early and high middle ages the Church sought to determine what constituted a legal, Christian marriage, whom good Christians could marry, how many times they could marry, and if they could separate. The drive to prevent incestuous marriages can be seen as the beginning of a move by the Church to put the answers to those questions into practice over the period of time covered by the penitentials.<sup>161</sup>

Although anti-incest legislation both supported and in turn was supported by the growth of the authority of the Church in determining what was required for a licit marriage to take place, Mayke de Jong has asserted that “early medieval legislation about incest was not only a matter of self-interested clergy forcing an alien morality upon a newly converted and resisting laity” rather, that there was a harmony of interest in eradicating incest between secular and religious authorities.<sup>162</sup> That such a harmony of interest did not occur immediately within newly converted societies is made clear by a privilege granted by Pope Gregory II in 726 which authorized missionaries to allow marriages in the fourth degree among newly converted people.<sup>163</sup> That such a harmony of interest did eventually exist is evident in some of the early medieval secular law. In 596, King Childebert II decreed that “marriage with one’s stepmother was a capital offence;

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<sup>161</sup> D.L. D’Avray, *Medieval Marriage: Symbolism and Society*, (Oxford: Oxford University Press, 2005), 92-93. I am referring to the fact that the move to prevent incestuous unions precedes three centuries of growth in the medieval Church’s influence over marriage.

<sup>162</sup> Mayke de Jong, “To the limits of Kinship: Anti-Incest Legislation in the Early Medieval West (500-900)” in *From Sappho to De Sade : moments in the history of sexuality*, ed. Jan Bremmer.(New York: Routledge, 1991), p. 37.

<sup>163</sup> *Ibid.*, 40.

furthermore, he banned from his court all those who refused to comply with the bishops in matters of incestuous marriage.”<sup>164</sup> The mid-seventh century Visigothic code also included strict prohibitions against incest, saying that

No one shall marry, or maintain incestuous relations with, any woman belonging to the family of his father, or his mother, or of his grandfather, or his grandmother; or with the betrothed of his brother, or the widow of any of his relatives. Therefore, it shall not be lawful to defile the blood of such as are related even to the sixth degree, either by marriage or otherwise... If any person should violate it, the judge shall immediately order them to be separated, and shall cause them to be placed in monasteries, according to their sex, there to perform perpetual penance.<sup>165</sup>

The code went on to stipulate that no one could marry “any near relative of their own; or any one with whom his connection might be branded with infamy; because that cannot be a true marriage, which from good becomes evil, and which, under a false name, nothing more than incest and fornication. In 723 the Lombard king Liutprand made a law prohibiting marriage to a cousin’s widow because “as God is our witness the Pope at Rome...has exhorted us through a letter that we not permit such unions to be contracted in any way.”<sup>166</sup>

By far the source of the most problems for newly converted people stemmed from differing methods of calculating degrees of kinship. Up until the early ninth century the Church’s method of calculating degrees of kinship conformed to that set forth by Roman civil law, in which one counted the number of relatives between oneself and their perspective spouse, as illustrated in Fig. 1, below.<sup>167</sup> In this case, the first cousins in the

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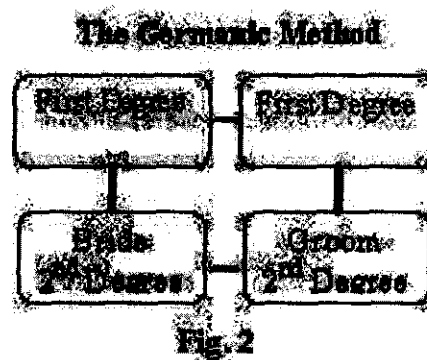
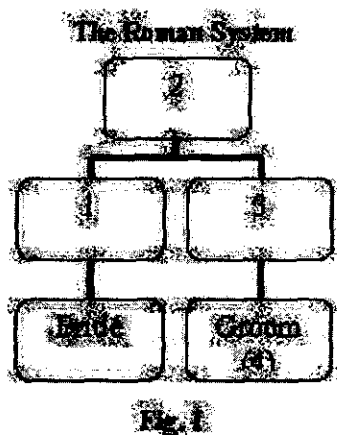
<sup>164</sup> Ibid., 39.

<sup>165</sup> Flavius Chintasvintus, *The Visigothic Code*, ed. S.P. Scott. <http://libro.uca.edu/vcode/visigoths.htm>, 3.1.

<sup>166</sup> Quoted in Ross Balzaretti, “Sexuality in Late Lombard Italy, c. 700-800 A.D.”, in *Medieval Sexuality: A Casebook*, eds. April Harper and Caroline Proctor, (New York: Routledge, 2008), 18.

<sup>167</sup> Constance B. Bouchard, “Consanguinity and Noble Marriages in the Tenth and Eleventh Centuries” in

diagram would be related in the fourth degree. Under the Germanic system, one would count laterally the number of generations between oneself and their perspective spouse back to the common ancestor, much like counting the steps on a ladder, as illustrated in Fig. 2, below.<sup>168</sup> In this case, the first cousins shown in the diagram are related in the second degree.



Although the Church used the Roman method of calculation into the early ninth century, the newly converted Germanic peoples did not, a circumstance which doubled the number of ineligible marriage partners for those not familiar with the Roman system, a situation which was made even worse when Pope Gregory III extended the number of forbidden degrees from four to seven in 732.<sup>169</sup> By this time the number of ineligible marriage partners had reached its greatest extent, a long and difficult process which had its origins in the sixth century.

*Speculum*, Vol. 56, No. 2 (Apr., 1981), pp. 268-287, p. 269. Accessed 7/12/09. See also de Jong, "Limits", 38; and Elizabeth Archibald, *Incest and the Medieval Imagination*, (New York: Oxford University Press, 2001), 28-29.

<sup>168</sup> Bouchard, "Consanguinity", p. 270, and de Jong, "Limits", 38.

<sup>169</sup> de Jong, "Limits", 40-41.

The first ecclesiastical body to extend the circle of forbidden sexual partners was a gathering of bishops held in Epaon in 517. They forbade Christians to have relations with their stepmothers, stepdaughters, uncles, first or second cousins, sisters-in-law, or brother's widows.<sup>170</sup> Under the Roman system this would include blood relatives within the sixth degree and some affinal kin. The justification for the prohibition on marrying affinal kin was justified by the Christian ideal that once a couple was married, or indeed once a couple had sexual relations, the two became "one flesh [and] they acquired a common circle of relatives."<sup>171</sup> Essentially, once two people had intercourse there was no difference between natal and affinal kin, thus eliminating the relatives of anyone one had ever slept with from the pool of prospective marriage partners. The prohibition on marriage between spiritual kin dates from a council led by Pope Gregory II in Rome in 721, which "forbade marriage with one's *commater*, i.e. the godmother of one's child, or with the mother of a child to whom one was godfather."<sup>172</sup> In early Christian society parents usually sponsored their own children at baptism, but beginning from the sixth century, the godparent would usually be a single person of the same sex as the child. It was not until the ninth century that the ban became necessary, as the number and sexes of the godparents began to vary.<sup>173</sup> This stipulation also grew to include relations with anyone whom someone had sponsored either at baptism or confirmation. By the time that the forbidden degrees were raised to seven and the method of calculation changed from the Roman to the Germanic system, medieval anti-incest legislation forbade marriage between any blood kin "as far as memory could go back" in theory and within the

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<sup>170</sup> Ibid., 38; and Archibald, *Imagination*, 29.

<sup>171</sup> de Jong, "Limits", 43.

<sup>172</sup> Ibid., 39.

<sup>173</sup> Archibald, *Imagination*, 30-31.

seventh degree in practice, all affinal kin and all spiritual kin.<sup>174</sup> This remained the case until in 1215 the Fourth Lateran Council decreed that

It must not be deemed reprehensible if human statutes change sometimes with the change of time, especially when urgent necessity or common interest demands it, since God himself has changed in the New Testament some things that He had decreed in the Old. Since, therefore, the prohibition against the contracting of marriage *in secundo et tertio genere affinitatis* and that against the union of the offspring from second marriages to a relative of the first husband, frequently constitute a source of difficulty and sometimes are a cause of danger to souls, that by a cessation of the prohibition the effect may cease also, we, with the approval of the holy council, revoking previous enactments in this matter, decree in the resented statute that such persons may in the future contract marriage without hindrance. The prohibition also is not in the future to affect marriages beyond the fourth degree of consanguinity and affinity; since in degrees beyond the fourth a prohibition of this kind cannot be generally observed without grave inconvenience.<sup>175</sup>

Not only did this canon reduce the number of prohibited degrees from seven to four and eliminate the restrictions on marriages within the second and third generations of affinal kin, it also represented a recognition that the previous laws were either ignored as impracticable or caused serious problems when obeyed. It does seem that amid nobles of the tenth and eleventh centuries incestuous marriages were generally avoided, although the fact that all of the noble houses of Europe quickly became related within the forbidden degrees seems to have eventually resulted in 'grave inconvenience'.<sup>176</sup> Such was the case when in 988 Hugh Capet was unable to find a wife of suitably high station in Western Europe for his son Robert which would result in a licit marriage. He eventually requested that a Byzantine princess be sent to marry his son.<sup>177</sup>

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<sup>174</sup> Ibid., 44.

<sup>175</sup> "Twelfth Ecumenical Council: Lateran IV 1215" in *The Internet Medieval Sourcebook*, ed. Paul Halsall, <http://www.fordham.edu/halsall/basis/lateran4.html>, Canon 50.

<sup>176</sup> Bouchard, "Consanguinity", 272.

<sup>177</sup> Ibid., 274.

The enforcement of anti-incest regulation varied from place to place and among the social classes. More often than not it was enforced selectively depending on the social considerations of the people involved. The initial reaction to the extension of incest prohibitions to blood kin within the seventh generation was the development of a series of forgeries written as a reaction to the harsh strictures. The most famous of these was a fictitious 'privilege' supposedly given by Gregory the Great allowing marriages to be contracted within the third generation which seems to have originated some time around 735. The confusion over that particular forgery continued into the middle of the ninth century.<sup>178</sup> Apparently, many clergy below the pontiff recognized the impracticality of the prohibitions within the seventh degree. According to de Jong, "conciliar decisions and royal ordinances from the first half of the ninth century generally went no further than the fourth or fifth generation; only marriage between third generation kinsmen was sufficiently close to justify separation of the culprits" while those who married in the fourth degree often had to remain together in perpetual penitential chastity.<sup>179</sup> Although the impracticality of the seventh generation restriction was often recognized and therefore was ignored at the lower levels of society, there is evidence that local priests were occasionally given Episcopal instructions to "operate as a kind of vice squad, making their investigations among the 'honest and God-fearing people' in order to track down incestuous marriages."<sup>180</sup>

The other major problem with the overly-stringent anti-incest legislation, as far as the Church was concerned, was the flagrant abuses to which it was put. There were numerous cases of people, especially in the upper strata of society, using the anti-incest

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<sup>178</sup> de Jong, "Limits", 41-42.

<sup>179</sup> Ibid., 43.

<sup>180</sup> Ibid., 44.

laws to obtain annulments of inconvenient marriages. Perhaps the most famous such incident of this type was the 1152 annulment of the marriage of King Louis VII of France and Eleanor of Aquitaine, who then remarried Henry II, then Duke of Normandy, to whom she was also related.<sup>181</sup> Similar cases abound. “One couple at Beauvais bribed witnesses to swear to consanguinity between them in order to obtain a divorce fraudulently, and a noble of Fermo suddenly decided after seven years that he and his wife were cousins.” Eventually, Pope Clement III determined that any witnesses who were aware of a consanguineous relationship at the time a marriage was contracted could not testify against the validity of that marriage later, in hopes of limiting some of this type of abuse.<sup>182</sup> One case from the ninth century related by Hincmar of Reims involves a man who got engaged to the daughter of a powerful cohort and subsequently discovered that he had previously had a sexual relationship with her kinswoman. The prospective groom sought clerical advice and was told that the marriage would be incestuous and irredeemable by penance as long as the relationship continued. The engagement, however, was a binding contract and the man was forced to publicly marry his intended; however, he declined to consummate the marriage. His father-in-law complained to the authorities and the entire incident became a public scandal.<sup>183</sup> The prohibitions which made sexual relationships with spiritual kin incestuous were similarly abused. Cases have been found in which women sponsored their own children’s confirmation in order to rid themselves of an unwanted husband. A similar incident told by a French cleric in 727 relates how the concubine of King Chilperic forced his marriage to Queen Audovera to become invalid by reason of incest. Apparently, the concubine convinced the queen to

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<sup>181</sup> Bouchard, “Consanguinity”, 268.

<sup>182</sup> Ibid., 269n.

<sup>183</sup> de Jong, “Limits”, 44-45.

sponsor the baptism of her newborn child sired by the king. The arrangement violated the strictures against sexual relationships with spiritual kin and invalidated the royal marriage.<sup>184</sup> The fact that the extremely strict -and useful- incest laws threatened the peaceful functioning of Christian social relationships seems to have been recognized, as incest was often tolerated in the interest of maintaining civil order or resolving conflicts between families as long as it was outside the nuclear family.<sup>185</sup>

Several major traditions regarding incestuous unions can be found in the penitentials, a fact which reflects both the initial confusion about what the forbidden degrees were and later the changing requirements promulgated by the Church. Several of the earlier penitentials make statements similar to that found in the penitential of Theodore, in which he says “According to the Greeks it is permitted to marry in the third degree of consanguinity, as it is written in the Law; according to the Romans, in the fifth degree; however, in the fourth degree they do not dissolve [a marriage] after it has taken place...in the third, they are to be separated.”<sup>186</sup>

The earliest tradition to be found in the penitentials regarding incest can be found in The Synod of the Grove of Victory, and the penitential of Cummean. It states “He who defiles his mother, three years with perpetual pilgrimage.”<sup>187</sup> The Canons of St. Patrick offer no penance for incestuous relationships but stipulate that if the relationship is within the fourth degree the culprits must be separated, a stipulation that is common to most of the penitentials considered here.

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<sup>184</sup> Ibid., 39.

<sup>185</sup> Archibald, *Imagination*, 49.

<sup>186</sup> McNiell and Gamer, “The Penitential of Theodore” in *Handbooks*,

<sup>187</sup> “The Synod of the Grove of Victory” in Ibid., 172.



The penitential of Theodore provides the origins of two subsequent canons which also appear frequently throughout the penitential texts. The first requires a penance of fifteen years and says

If one commits fornication with his mother, he shall do penance for fifteen years and never change except on Sundays. But this so impious incest is likewise spoken of by him in another way- that he shall do penance for seven years, with perpetual pilgrimage. He who commits fornication with his sister shall do penance for fifteen years in the way in which it is stated above of his mother. But this [penalty] he also elsewhere established in a canon as twelve years. Whence it is not unreasonable that the fifteen years that are written apply to the mother.<sup>188</sup>

He also assigns a penance of fifteen years to “a brother [who] commits fornication with a natural brother” during which the penitent must abstain from eating meat.<sup>189</sup> It is not altogether surprising that Theodore gives incest a penance of fifteen years given the tendency for incest with a nuclear family member to be taken as seriously as bestiality or sodomy, which he also gives a penalty of fifteen years. The insinuation that a lesser penance might be acceptable for relations with a sister is inexplicable, but does appear in some of the later penitentials. The stipulation that the incestuous penitent must engage in perpetual pilgrimage as part of his punishment which is included in both this tradition and the earlier one discussed above was not overwhelmingly popular in the penitential literature but was practiced in some cases even into the high Middle Ages. One case from the Lincoln Dean and Chapter in 1347 includes a similar punishment:

John Marabel, a married man, is cited of adultery and incest with Alice, daughter of Robert de Wywell, daughter of the said John's wife...John is forbidden from coition with either the mother or the daughter in future, unless the mother, who is the wife, seeks the debt and he pays it with sadness. And he will have as penance to make a pilgrimage with bare feet to St. Mary at Lincoln, to St. Thomas [Becket] at Canterbury, and to [St. Thomas Cantilupe] at Hereford and to beatings in penitential fashion round the church and round the marketplace of Grantham.

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<sup>188</sup> “The Penitential of Theodore” in *Ibid.*, 186.

<sup>189</sup> *Ibid.*

And he will forswear the sin and suspect locations for the said Alice under pain of 40/-. It is later held that the same John on his pilgrimage would take much from his said wife, (so) the penance was changed so that he will fast on bread and water as long as he lives every fourth and sixth week, unless work or sickness prevents this... We John warn thee, the aforesaid John, once, twice and a third time that you, having been parted for good from your wife, will eject the said Alice from your company within the next six days under pain of greater excommunication which is now (pronounced) most firmly on your person in these writings if you should disdain to carry out the foregoing.<sup>190</sup>

The penalty of fifteen years is found in almost all of the Anglo-Saxon penitentials examined in this study, and only in one of the Irish and one of the French penitentials. It was not used at all in any of the penitentials written during the ninth century, but was most popular in those written in the eighth century.

The second innovation to be found regarding incest in the penitential of Theodore is the only canon on incest which is specifically directed toward a woman as the active party. It says "If a mother imitates acts of fornication with her little son, she shall abstain from flesh for three years and fast one day in the week, that is until vespers."<sup>191</sup> This canon's use is also more or less limited to the Anglo-Saxon penitentials; while it appears in all of them examined here; it only appears in two of the Frankish works and none of those written by Irish authors.

The fourth major tradition to appear in the penitential handbooks appears in the Bede's penitential, and offers the first instance of the penance for incest being graded depending on the age of the perpetrator. It says "If an adolescent pollutes his sister, five years. If [his] mother, seven years, and as long as he lives without self-control."<sup>192</sup> This is

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<sup>190</sup> 1347. Lincoln Dean and Chapter, A/2/24, fo. 72v, "Medieval Sourcebook: Manorial Marriage and Sexual Offense Cases" in *The Internet Medieval Sourcebook*, ed. Paul Halsall, trans. Paul Hyams. <http://www.fordham.edu/halsall/source/manor-marr1.html>.

<sup>191</sup> McNiell and Gamer, "The Penitential of Theodore" in *Handbooks*, 186.

<sup>192</sup> Haddan and Stubbs, "Bede's Penitential" in *Ecclesiastical Documents*, 328. "Si adulescens sororem suam polluit, V annos. Si matrem, annos VII, et quamdiu vivit numquam sine continentia."

another example of different penances given even for the violation of a mother and a sister; it is also less than half the penance given for an adult in almost all of the Anglo-Saxon penitentials. This canon appears only in the penitentials attributed to Bede and the St. Hubert penitential. In both those attributed to Bede, it is accompanied by other (if not necessarily always harsher) canons on incest; however, it is the sole canon dealing with the subject in St. Hubert's penitential.

The traditions given above are only the most commonly occurring ones. With incest, as with any other topic, the penitentials give a diversity of opinion. For example, the Pseudo-Roman penitential prescribes a very short period of penance for sexual relations between a stepfather and stepdaughter but is fairly vague as far as the penalty for other types of affinal kin. It says "If anyone takes in marriage his wife's daughter, he cannot be judged unless they have first been separated. After they are separated, thou shalt sentence each of them to fourteen weeks, and they shall never come together again. But if they want to marry, either the man or the woman, they are free to do so, but he shall not marry her whom he sent away."<sup>193</sup> Everyone else is simply "canonically condemned." The Bigotian penitential prescribes a penance of either four, seven or fifteen years for incest, while Pseudo-Bede has five canons dealing with incest with penances ranging from one to fifteen years. In addition to a canon similar to Theodore's (only he gives 14 years instead of 15) the Old Irish penitential gives one canon in which fornication with a nuclear female relative is thrown in with several other crimes and is given a penance of a one year fast on bread and water. Finally, in a canon which is extremely unusual in its lenity, particularly for the time it was written, the Pseudo-Egbert penitential stipulates

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<sup>193</sup> McNiell and Gamer, "The So-Called Roman Penitential" in *Handbooks*, 311.

that if a married couple is discovered to be related within the fourth degree they are not to be separated, but should be if they are found to be related in the third degree.<sup>194</sup>

Perhaps more than with bestiality and homosexuality, the penitential canons on incest regulations generally tend to reflect contemporary changes in Church policy toward consanguineous relationships. Almost all of the penitential canons only concern themselves with members of the nuclear family, so in this way they did not quickly adapt themselves to the papal regulations, or indeed even some of the secular laws that were created. The first penitential even to mention blood relatives who are not part of the nuclear family was the St. Hubert Penitential written around 850 despite the long standing Levitical prohibitions on uncles, aunts and the like. The first mention of affinal kin is found in the Pseudo-Roman penitential written about 830. Despite the ban on sexual relations with spiritual relatives enacted in 721<sup>195</sup>, the penitentials do not reflect this doctrine until 850 in the St. Hubert penitential, which says that anyone who is joined in marriage to their god-daughter or god-sister should be separated and do five years of penance. If they have been fornicating, the penance goes up to seven years.<sup>196</sup> Regino of Prum is the only other penitential under examination here to discuss sexual relations with spiritual kin. Essentially, he mentions pretty much any natal, affinal and spiritual kin he can think of and says that having relations with them is anathema.<sup>197</sup>

While the changes regarding affinal and spiritual kin did not happen quickly, the penitentials do reflect contemporary thought in another way. Around the same time that

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<sup>194</sup> Wasserschleben, "Poenitentiale Pseudo-Ecgberti" in *Bussordnungen*, 311-312.

<sup>195</sup> de Jong, "Limits", 39.

<sup>196</sup> Wasserschleben, "Poenitentiale Hubertense" in *Bussordnungen*, 384.

<sup>197</sup> Regino of Prum, 286-287.

the pontiffs were extending the definition of incestuous relationships to include spiritual kin and anyone within the seventh degree of consanguinity, there is an increase in the treatment of incest in the penitentials. This surge seems to start among the Anglo-Saxon authors between about 700-750. Only half of those handbooks written before 750 treat incest at all. Of those compiled after 750, all but two smaller ones – The Paris and Fleury penitentials- include penances for incest. That this pattern indicates a period of particular concern about incestuous behavior is supported by the fact that most of the new canons regarding incest occur between 700-750, with the exceptions being the addition of affinal and spiritual kin discussed above. During this period the penitential authors also penanced incest the most stringently, assigning it the highest penance given to any sexual sin. This practice dropped off slightly after about the year 800, though the penances never became as comparatively light as those given before the penitential of Theodore written at the end of the seventh century.

*“...You compel many lords  
to wrong their vassals,  
vassals their lords,  
and friends to wrong each other.”<sup>198</sup>*

### **Adultery and the Community in Medieval Europe**

Adultery stands apart within this study because it is the only area which in addition to violating the boundary between the sacred and the carnal it was necessarily

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<sup>198</sup> Wolfram von Eschenbach's *Parzival*, quoted in James A. Shultz, *Courtly Love, the Love of Courtliness, and the history of Sexuality*, (Chicago: University of Chicago Press, 2006), 104.

extremely disruptive to the social order. This chapter will trace the ways in which the community sought to reconcile (or not) the adulterer with itself, as well as how adultery was viewed by the community. Because adultery was disruptive of the social order it was in some ways similar to murder or robbery which could also complicate inheritance patterns, and because in the case of all three crimes, the difference between committing it secretly or openly could make a big difference in the community. In order to better explore medieval thought about whether or not certain crimes, including adultery, should be kept secret this chapter will include a general comparison between the penalties for all three crimes both within the early medieval law codes and in the penitentials.

It is also important to note that in the Middle Ages the term “adultery” could be used in a variety of different ways and one often has to rely on the context in which it is used to determine whether the scenario being referred to is actually adultery or just simple fornication. The reverse is also true, often the word “fornication” was used to refer to scenarios which were actually adulterous, as when the context indicates that one or both parties are married to someone else. To further muddy the waters, the term could be used to refer to any case where one party or the other is married but other times could be limited to situations where both parties are married. This chapter will exclude encounters which were more often referred to as simple fornication and will deal primarily with instances in which one or both parties were married. Furthermore, although people who had taken religious vows and who engage in sexual relationships were also often referred to as adulterers, especially as the Church began to be successful in squeezing out priestly marriage, these relationships will not be treated in depth here as it is a broad topic worthy of a more exhaustive study.

### Adultery in Early Medieval Law:

In early medieval law, adultery seems to have been a matter of property damage, or of damage to the reputation of a man rather than of an adulterous woman. In addition, it seems to have been a foregone conclusion that adultery would be publicly known, as there are few references to adultery where it was clearly a secret. In cases where the adultery or other crossing of the sexual boundaries of a woman by an unauthorized male in which there was even the hint of secrecy, the offended husband was often allowed to kill the other man and/or his wife. For example, according to the edict of the Lombard king Rothair, if a man caught his wife in the act he had the right to kill both her and her partner. If, however, he did not catch them but accused another man of sleeping with his wife and was able to prove the charge, the offended husband was permitted to kill his wife's partner.<sup>199</sup> The laws of Alfred the Great included a similar statute which said that "someone may fight blamelessly if he discovers another with his lawful wife behind closed doors or under the one cover, or with his legitimate daughter, or with his legitimate sister..."<sup>200</sup> Even in less serious cases of sexual boundary crossing, if the crime had to be *discovered* and *proven* instead of being common knowledge the penalties were harsher. One Lombard law said that if a man touched the breasts "or some other shameful place" of another man's wife, the offender had to pay the wergeld to the woman's husband. If the man denied doing it, the husband had the right to challenge him to combat. If the crime was thereby proved and the offender could not pay, "then a public

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<sup>199</sup> Katherine Fischer Drew, *The Lombard Laws*, (Philadelphia, University of Pennsylvania Press, 1973), 93.

<sup>200</sup> Bill Griffiths, *An Introduction to Early English Law*, (Norfolk, England, Anglo-Saxon Books, 1995), 74.

official shall hand him over to the woman's husband, and the husband may take vengeance on him or discipline him in vindication, but he may not kill him or inflict any mutilation on his body."<sup>201</sup> The same relationship between concealing a crime and the level of punishment is evident when one looks at early statutes regarding theft or murder. For example, under Salic law, "He who finds a cow or horse or other animal in his field should do it no grievous harm. If he does so and confesses it, he must restore the full value of the animal to its owner and keep for himself the weakened animal that he had struck..." if, however, the bovine abuser did not confess to the maltreatment and it was proved against him he had to pay the owner six hundred denarii, return the animal or provide payment in the amount of the animal's value as well as a payment to compensate for the time the owner spent without the use of the animal.<sup>202</sup> Similarly, a man who killed someone (or sleeps with another man's wife) had to pay eight thousand denarii if, in the case of the murder, the offender tried to hide the body the fine tripled to twenty four thousand denarii.<sup>203</sup>

The primary concern the law codes seemed to have regarding adultery seems to be the damage to the reputation of the woman's male guardians, not merely cuckolding. There is nothing explicit to express fears about the legitimacy of offspring in the early law codes, although the concerns about secrecy may be a product of that. In every case of adultery which was not explicitly kept secret the offending male had to make a payment to the woman's male guardian, be it her husband or her natal male relatives if the woman

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<sup>201</sup> Drew, *Lombard Laws*, 197.

<sup>202</sup> Katherine Fischer Drew, *The Laws of the Salian Franks*, (Philadelphia, University of Pennsylvania Press, 1991), 73.

<sup>203</sup> *Ibid.*, 80, 104.



was betrothed but the official transfer of her mundium had not taken place. For example, under Lombard law a man who

Takes to wife, with her consent, the girl or widow betrothed to someone else, shall pay twenty solidi as composition for the illegal intercourse to the relatives of the woman or to him to whom her mundium belongs. He shall pay another twenty solidi to avert the feud, and then he may acquire her mundium at an agreed price. Moreover, he must pay him who had betrothed the woman and whom he has treated disgracefully double the amount of the marriage portion established at the time of betrothal. After the betrothed man has accepted the double payment as composition, he should be content and nothing more should be required.<sup>204</sup>

A similar statute from the laws of Alfred the Great stipulated that if a betrothed woman committed adultery, a fee in livestock must be paid to the woman's "guarantor" according to the amount of her wergeld.<sup>205</sup> In this instance the indication that an adulterous daughter is damaging to the reputations of her male relatives is fairly obvious. Her natal male relatives had acted as "guarantors" of the woman's fidelity and good sexual behavior while they still held her mundium after the betrothal had taken place. The law codes provided similar punishment if the adultery had taken place after the marriage and transfer of mundium. Generally speaking, in cases of simple adultery where the offense was not explicitly kept secret a payment must be made by the offending male to the wronged husband. The only incident in which any punishment is implied for the woman comes from the laws of Ethelbert of Kent which say that "If one freeman lies with another freeman's wife, he shall render the wergeld, and procure with his own money a second wife for the man and bring her to his house."<sup>206</sup>

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<sup>204</sup> Drew, *Lombard Laws*, 87-88.

<sup>205</sup> Griffiths, 65.

<sup>206</sup> *Ibid.*, 36.

### Adulterous Women and the Ordeal:

In the law codes references to a case of adultery being proven against a man presumably refer to some kind of contest of arms. According to them cases of adultery must be proven *against the man*. As the Middle Ages progress one starts to see more explicit consequences for the women and more concern about their agency in adulterous unions, as well as concerns about paternity. Medieval paternity test via ordeal cases and the growth in expressed concern about paternity also generally coincide with the Germanic people's adoption of single-heir inheritance. The growth in popularity of the ordeal is really the first time we see adultery being proven *against the woman*. In this way she is more than just a medium for men's reputation, she has been at least partially promoted to a being with a reputation and agency in her own right. In fact, it has been argued that the abolishment of the unilateral ordeal was really the most harmful for women for this reason.<sup>207</sup>

By the Carolingian period, ordeals became commonly associated with sexual sin not only for noblewomen but for women of lesser social standing as well. The requirement that accused women clear themselves by undergoing the ordeal of hot iron appears in legal cases from early twelfth century France and thirteenth century Scandanavia, although in actual practice they were in use long before then.<sup>208</sup> The most commonly known examples, however, are of accused queens. For example, in 887 Queen Richardis, wife to Charles the Fat, was accused of committing adultery with a bishop. She was able to clear herself by going through the ordeal of red-hot ploughshares as did

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<sup>207</sup> Steven D. White, "Imaginary Justice: The end of the Ordeal and the Survival of the Duel," *Medieval Perspectives*, v.13 (1998): 47- 48.

<sup>208</sup> Robert Bartlett, *Trial by Fire and Water: The medieval judicial ordeal*, (Oxford, Clarendon Press, 1986), 19.

the similarly accused Cunigunda, wife of emperor Henry II.<sup>209</sup> In the Scandinavian Eddas, Queen Gudrun is accused by her serving maid, Herkja, of committing adultery.

Her ordeal is described as follows:

She put her hand into the water  
and gathered up the glittering gems:  
'My lords you have seen the sacred trial  
prove me guiltless-and still the water boils.'

Atli's heart laughed in his breast  
because Gudrun's hand had not been harmed:  
'Now let Herkja go to the kettle,  
she who hoped to hurt my wife.'

No man has seen a pitiful sight  
who has not looked at Herkja's scalded hands;  
then they forced her into a foul swamp-  
Gudrun's grievance was well avenged.<sup>210</sup>

Ordeal was also used in cases of disputed paternity with some frequency all over Europe. For example, in the late eleventh century, a woman publicly underwent the ordeal of hot iron to prove that her sons were the offspring of Duke Robert Curthose of Normandy. The outcome of such paternity ordeals often had high public impact. In another case from 1218 an ordeal by hot iron proved the paternity and secured the succession of King Hakon IV of Norway. At the more local level, a paternity dispute in 1070 in Bayeux resulted in an ordeal and the changing hands of an estate.<sup>211</sup> In another case, which did not explicitly involve an ordeal but which has elements which allow for such an interpretation, a Parisian woman was widely held to have cheated on her husband. The husband's relatives went to the wife's father and said "Either make your daughter behave properly or she shall surely die, lest her wantonness lay a disgrace on our family." To

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<sup>209</sup> Ibid., 16.

<sup>210</sup> Quoted in Ibid., 18.

<sup>211</sup> Ibid., 19-20.

prove her innocence, the father swore to her fidelity on the martyr's grave at St. Denis, an argument and general carnage ensued. As a result, all of the surviving combatants were excluded from communion and the church placed under interdict until the matter could be investigated.<sup>212</sup> It is clear from these episodes that adulterous unions and the resultant paternal confusion had very serious and long lasting effects on the community. The popular association of women's participation in unilateral ordeals with sexual misconduct indicates a strong social need to control and restrain feminine sexuality, especially in cases of queens and noblewomen. Since the power upon which the ordeal relied was collective sentiment,<sup>213</sup> they can be said to represent a communal judgment on the woman's character and her actions, or rather as a communal failsafe for the dangers of uncontrolled female sexual activity. According to R.I. Moore, "Since the ordeal was a judgment of the community those who were confident of their standing in the community (or at any rate more confident of that than their standing in law) might well prefer it to the justice of their hierarchical superiors."<sup>214</sup> The communal judgment of an ordeal would be particularly appealing to noblewomen or queens, for whom their hierarchical superior would often be their potentially offended husband. Dispersing some of the decision-making power to the community might have been a safer bet. It may have been the case that this possible circumvention of hierarchical justice in favor of communal appeal was viewed as problematic, as cases which involved sexual crime and which consequently were most likely to have female defendants figured heavily in the high medieval clerical debate regarding the abolition of unilateral ordeals. These gender biased concerns

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<sup>212</sup> Gregory of Tours, *History of the Franks*, ed. and trans. Ernest Brehaut, (New York, Octagon Books, 1965), 128-129.

<sup>213</sup> R.I. Moore, *The formation of a persecuting society : authority and deviance in Western Europe, 950-1250*, (Malden, MA, Blackwell Publishing, 2007), 123.

<sup>214</sup> *Ibid.*, 119-120.

combined with the fact that according to the densest available body of evidence, that of late twelfth century England, indicate that the use of unilateral ordeals in civil disputes had in large part gone out of use among upper class males and had been replaced with the judicial duel. According to Stephen White “for other kinds of litigants, including, it seems, upper-class females, the abolition of unilateral ordeals may sometimes have had significantly practical implications.”<sup>215</sup>

### **Covert vs. Licit Exercise of Female Sexuality in the High and Late Middle Ages:**

In the early Middle Ages, women’s sexuality was primarily an indicator of male status; while this did not change to any large degree in the high and late Middle Ages (more on that below), it is during this time that there began to be more of a concern about women’s reputations seemingly for their own sake. Expressions of concern about female reputation without necessarily the accompanying commentary on how it affected the status of her male kin became much more frequent in the high and late Middle Ages. One example from the 1372 *Book of the Knight of the Tower*, a book written by Geoffrey de la Tour Landry and his wife as an instruction book for their daughters, has several examples of this. One such tells the story of Hester, who had a bad husband and was advised to have an affair to make her happy. She declined to do so for reasons Landry describes as follows:

The one prison was loue the other was drede  
and the thyrd shame

These thre virtues mastried her for the loue that she had to her lord kepte her fro doing of  
ony thyng that myght come to the dysplaysyre of her lord  
Dred made her ferynge the losse of her god renomme and honour  
and to falle in synne

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<sup>215</sup> White, 47-48.

and shame kepte her fro euylle and dishoneste repreef.<sup>216</sup>

In another excerpt from the same book, Landry's wife advised her daughters against having extramarital affairs, citing the imperfect privacy of the aristocratic household. More will be said on the topic of public and private sexuality below, but it should be mentioned at least in passing that household servants are problematic in that they cross the boundary between the two realms. They had intimate knowledge of how their mistresses were choosing to exercise their sexuality, but they were not completely members of the private sphere in that they were not family and were required to cross that boundary so often themselves. The penitentials do make many provisions for how servants and masters should interact within the private sphere, particularly on a sexual basis, and I believe the topic warrants further investigation; however it is outside of the scope of the current study. Jeanne de Rougé did touch on this problem, however, when she warned her daughters that

If any woman makes a show of love to a man, and if her servant or somebody else sees it, when they leave her they will immediately talk about it in front of other people. The words will race so far that in the end men will say she has done dishonorable deeds. In this way, a good and true woman is blamed and dishonored. If her lord gets any knowledge of it, he'll never truly love her again, but will always speak ill of her, and they'll lose their happiness and the true love of their marriage.<sup>217</sup>

While certainly there were examples of concern over a woman's reputation seemingly for her own sake and not necessarily for the sake of her husband's status, most of women's sexual identity throughout the high and late Middle Ages continued to be defined by the

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<sup>216</sup> Quoted in <sup>216</sup> Mark Addison Amos, "The Gentrification of Eve: Sexuality, Speech, and Self-regulation in Noble Conduct Literature", in *Sexuality and the Divine in Medieval Culture: The Word made Flesh*, ed. Sussanah Mary Chawning, (Burlington, VT, Ashgate, 2005), 22.

<sup>217</sup> Geoffrey de la Tour Landry, *The Book of the Knight of the Tower*, ed. Rebecca Barnhouse, (New York, Palgrave MacMillan, 2006), 168.

need to serve as a status symbol for her husband, while the development of the ideals of courtly love forced upper class women to develop a two sided sexuality.

With the rise of the idea of courtly love in the twelfth century, noblewomen needed to have a dual-faceted sexuality. This bifurcated sexuality had to encompass the formalized, romanticized and glorified sexuality of her public life at court, which was usually either licit or superficial enough to be relatively harmless and the, for lack of a better term, private sexuality which included actual sexual liaisons whether licit or illicit. Or in other terms, aristocratic life can be seen as a “turbulent confluence of public and private spheres with competing mandates for women’s self-regulation.”<sup>218</sup> This was a form of self regulation which, if it became disordered through a sexual misstep, would be punished and corrected by her community.

Medieval noblewomen lived in a society where they could not “be banished to the private world of the autonomous and independent household, since noblewomen must serve as public symbols of their lords’ wealth and status.”<sup>219</sup> While a desirable wife who exercised her public sexuality with restraint was a status symbol, a wife who allowed her private sexuality to cross into the public sphere could serve to lower her husband’s status and prestige. A change in the status of a powerful lord had affects for the whole community and required sanctions. For example, in Beroul’s *Tristan and Yseut* some of Mark’s barons came to him and said that they did not approve of Mark knowingly being a cuckold. They threaten to break their allegiance to him if he does not banish Tristan and

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<sup>218</sup> Amos, 20.

<sup>219</sup> Ibid.

put an end to the affair.<sup>220</sup> In this case, Yseut's behavior threatens to cause major political change through the reputation damage to her husband, not to mention the fact that she endangers the unbroken succession. For an indiscretion which so deeply affects the community, there must be a communal punishment. There must be reparations. In both Beroul's and Gottfried's versions of the story, Mark ensures that Isolde/Yseut pays her debt to the community by forcing her to publicly violate the boundary between the private and public facets of her sexuality. In Beroul's version, Mark is about to publicly burn Yseut for adultery when he decides to instead hand her over to the residents of a leper colony. The lepers make it clear that Yseut will suffer a sexual punishment for a sexual crime when they say

Give us Yseut; she'll belong to all of us;  
Never did a lady know a worse fate.  
Lord, we have such ardent desires  
That there is not a lady on this earth who could more  
than a day  
stand to have relations with us...  
If you hand her to our lepers,  
When she will see our lowly brothels...<sup>221</sup>

Further sexual innuendo and references to Yseut's loss of status follow. In this case, Mark (and tacitly the community since only Tristan tries to save her) assert that Yseut has shown the sexual voraciousness of a leper. This is quite a nasty assertion given that in the Middle Ages leprosy was generally held to be a sexually transmitted disease. The insinuation is that Yseut's behavior makes her no better than a prostitute, as the passages which follow refer only to Yseut's loss of material comfort and not to a loss in reputation. In other words, because she did not control her sexuality on her own, she will lose the

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<sup>220</sup> Beroul, *Tristan and Yseut*, ed. Guy R. Mermier, (New York, Peter Lang, 1987), 33.

<sup>221</sup> *Ibid.*, 59-63.



right to control it should she wish to. Furthermore, since people afflicted with leprosy were exiled from their communities and were treated as though they were already deceased, Yseut's exile to a leper colony is more damning and has an air of permanence one does not see in the episodes of Tristan's exile. In Gottfried's *Tristan*, Isolde's punishment is not quite as harsh, but Mark does still force Isolde's private sexuality into the public sphere. After Isolde cheats in the ordeal, she has deprived the community of reparation for her adultery and the story has to be put right. She cannot escape communal sanctions without the threat of violence as is made clear when Mark says

To him thou sendest lovingly  
far sweeter glances than to me.  
I know from love-lights in thine eye  
that he's thy lover more than I...  
Too much have I your love indulged,  
so let the end now be divulged:  
these vicious ways and all this woe  
that you to me could not but show  
with scheming shrewd and care,  
no longer will I bear;  
nor will I suffer this disgrace  
henceforth – no, not in any case.  
And yet for these amours illicit  
I shall not seek revenge explicit,  
as now by rights I should  
If venge myself I would.  
Nephew Tristan, Isot, my wife,  
to punish you and take your life,  
or cause you other harm and rue,  
for that I've too much love for you...<sup>222</sup>

Although this is a far cry short of sending Isolde to a leper colony's brothel, it still represents a communal sanction in punishment of Isolde's uncontrolled sexuality. Before he makes this speech, Mark gathers all of his courtiers so as to denounce the lovers

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<sup>222</sup> Gottfried von Strassburg, *Tristan and Isolde*, ed. and trans. Edwin H. Zeydel, (Princeton, NJ, Princeton University Press, 1948), 159-160.

“...publicly, that all the court could hear and see.”<sup>223</sup> In addition to being a very nasty and doubtless embarrassing public scene, it is also possible that Mark’s reference to Isolde’s “vicious ways” and “scheming shrewd” could in part refer to her cheating at the ordeal. If this is the case, then there is a direct relationship between Tristan and Isolde’s attempts to avoid making up for their indiscretions to the community and Mark’s stated right to kill them both. In any case, Isolde/Yseult is always punished more harshly than Tristan because she has failed to correctly negotiate the boundary between the public and private expressions of her sexuality. As one of the markers of male status and the locus of reproduction and therefore continuity of government, her affair has very serious consequences for the whole community, and her punishment must satisfy not only Mark, but the community she endangered.

It was not only queens like Isolde who had to separate their private and public sexual selves in order to maintain their lover’s status in the community. In the late fourteenth century *Book of the Knight of the Tower*, Geoffrey de la Tour Landry told a story about a rope maker, his wife, and a prior. The wife was having an affair with the prior – at first within her own house. On the first occasion, the husband wakes up and sees the prior leaving his bedroom. On the second, he finds the prior’s pants at the foot of his bed. On both occasions the husband is described as sad, not angry, and is convinced by his wife and a bawd that the wife is faithful. The third time, the husband sees his wife going into the prior’s house alone “and he got very angry. Immediately he warned her, on pain of losing her eye, that she should never be so bold as to go into the prior’s house.” On the next occasion the rope maker follows his wife to the prior’s house. He catches her and breaks both of her legs in retribution. Temporarily disabled, the wife has the prior

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<sup>223</sup> Ibid., 158.

come to her house to have intercourse again. The husband wakes up (yes, all three were in the same bed) and kills them both. “Then he called his household and his neighbors and showed them what he had done. He also sent for the judge by whom he was excused and had no harm.”<sup>224</sup> In this case, the husband only becomes angry rather than sad when the wife makes her adultery public by taking her sexuality out of the private, domestic sphere and going to the prior’s house to have a sexual liaison. As soon as she violated that boundary she is under threat of violence. After she has violated the requirement to keep her sexuality within the domestic or private sphere, she was not able to undo the damage and bring the relationship back into the private realm. She has only suffered punishment at the hands of her husband and had not repaired his standing in the community or at least with anyone who saw her sneaking off to the prior’s house. The communal damage had not been rectified. This misnegotiation of the sexual boundary is only put right with her and the prior’s death and the husband’s reputation thereby restored. This is evident in the fact that the no one, household, neighbors or judge, was the least bit taken aback or upset about the woman’s death despite there being no other evidence of bad behavior. Neither is there any mention of subsequent lowering of the rope maker’s status. The damage had been repaired. While the rope maker’s wife’s crossing of the public vs. private sexual boundary was fatal, not all such missteps were so dangerous, although they were usually disastrous. In another example, Landry told the story of a woman who was so jealous of a rival for her husband’s affection that she got into a public fistfight with the other woman, who broke the wife’s nose. According to Landry “because of the disfiguring of her nose and her ill fortune, her husband didn’t

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<sup>224</sup> Landry, 191-193.

love her as much as he had before and from time to time he took other women.”<sup>225</sup>

Clearly, this woman dealt with a private matter in a public (and rather disgraceful) way and was punished for it. She has pushed information from her private sexual life out into a public sphere and violated the boundary she was supposed to maintain, not to mention causing a public scandal. In a contrasting example, Landry related the story of another cheating husband who every night would leave his wife’s bed and go sleep with other women. When he came back his wife would have water and a towel ready and would ask him to wash his hands. The only time she ever mentioned her husband’s infidelity she did so in the privacy of their bedchamber after he had returned from one of his nightly excursions. Landry wrote

However, one time she spoke to him secretly, just between the two of them, saying ‘my lord, I know well what you do with so and so and with so and so, but never with me by God’s grace, since that’s your pleasure. I know I can’t remedy it so I won’t make worse cheer to you, nor show my emotions to them, either...But I ask that at least you don’t treat me ungraciously, nor that I lose your love nor your good favor, because I will endure all that it pleases you to bid me.’<sup>226</sup>

Because of how the woman handled the situation, the cheating husband was reformed. It is clear in this case that because the woman did not violate the boundary between the private and public exercises of her sexuality, everybody wins in this story. She earned the fidelity of her husband, the husband had a loving, faithful and patient wife, and the community had fewer illegitimate children to work into the inheritance structure.

One effect that this dual-faceted expression of female sexuality had was to allow for the valorization of adultery in fiction or in cases where the affair was kept completely

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<sup>225</sup> Ibid., 89.

<sup>226</sup> Ibid.

secret. This valorization of adulterous unions, however, sometimes coexisted and other times battled with feudal obligations and hierarchical loyalties. In many examples of courtly romance, the tension between the demands of courtly love and courtly duty is negated when the author wishes to valorize an adulterous union by making one of the participants an outsider to the community. Guigemar, for example, finds his married lover after traveling from his home on a mysterious magical ship to the lands of a man from whom he has received no hospitality and to whom he owed no fidelity.<sup>227</sup> This is even more the case in *Yonec* where we cannot even be entirely sure that the male lover is human and have no information whatsoever regarding his origins and no way to fit him into the local system of hierarchical loyalties and duties.<sup>228</sup> More widely-spread stories, particularly *Tristan and Isolde*, find it necessary to symbolically remove the illicit couple from the social structure as a method of excusing the adultery or at least as a way of partially reconciling the problematic sexual relationship with the betrayal of feudal obligations. Gottfried does this most noticeably when the couple spends time in the Grotto of Love, allowing him to valorize the relationship within the privacy of the forgiving, limnal space outside of the community they have wronged.<sup>229</sup> In Beroul, this effect is achieved by the great emphasis put on the fact that they are under the influence of a love potion, a potion which is drunk and which wears off in both instances when they are removed from their community as a whole.

### **Adultery in the Penitentials:**

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<sup>227</sup> Marie de France, "Guigemar," in *The Lais of Marie de France*, eds. and trans. Robert Hanning and Joan Ferrante, (Grand Rapids: MI: Baker Books, 2005), 36.

<sup>228</sup> Marie de France "Yonec" in *Ibid.*, 140.

<sup>229</sup> Gottfried von Strassburg, 160-164.

Generally speaking, the penitentials were in agreement with the rest of medieval society in feeling that adultery was detrimental and potentially disastrous to the social order. Like the early medieval law codes and the courtly literature, they acknowledge the consequences that adulterous unions had on the community. Where they differ from the methods of dealing with these illicit liaisons which have been discussed above, however, are that instead of trying to provide a formalized method of public redress against the offending couple, the penitentials tried to replace communal justice with solitary spiritual justice. Although it may not be entirely accurate, the relationship can also be understood in terms of feud or the possibility of communal vengeance. Some of the early law codes specified payments or measures that must be taken to prevent feud in the case of adultery, such as the Lombard law given above. Ordeals can be seen as either a preventative to feud or a formalized kind of feud (after all, Atli's wife was *avenged* through the ordeal). In both scenarios one finds oneself trying to manage the fallout of an adulterous relationship – feuding in a loosely defined sense- or at least violence once it has already gained some amount of momentum by seeking to formalize it. Under the old system of public penance which private penance and the appearance of the penitentials replaced, one would find the same thing. With the changeover, however, there was a loss of confessional concern with public catharsis and more of an apparent concern with the reduction of scandal and disruption of daily life. That the penitentials were primarily concerned with keeping private sins private is particularly evident in two canons. The first is from the early tenth century penitential of Regino of Prüm. Regino wrote “If one's wife commits adultery, and at that time the husband suppresses it and it is made public, he may dismiss the wife, if he wishes, for the fornication; in that way [she will do] seven

years of public penance...”<sup>230</sup> The second example, from the late seventh century penitential of Theodore pertains to the clergy. A clergyman who commits fornication must do seven years of penance but if he commits adultery and “it comes to the knowledge of the people, he shall be cast out of the Church and shall do penance among the laymen as long as he lives.”<sup>231</sup> It should be noted that in the case of religious people the penitentials were not the only legal body which sought to avoid or punish public scandal. According to the laws of king Liutprand, religious women “who have taken upon themselves the garb and habit of blessed religion, if because of their sinful nature they commit adultery voluntarily...” then the man who slept with the nun would have to pay two hundred solidi, twice the fee for coitus with an unconsecrated woman, and the woman loses any property she may have had.<sup>232</sup>

That the penitentials tacitly acknowledge the affect adultery had on the community is clear from one of the earliest traditions they present regarding the subject. It is, in fact, the first real trend to develop on the matter and is found in the early sixth century penitential of Finnian. The canon reads “If any layman defiles his neighbor’s wife or virgin daughter, he shall do penance for an entire year on an allowance of bread and water, and he shall not have intercourse with his own wife...”<sup>233</sup> The reference to violating your neighbor’s female relatives seems to have been most popular in the Irish influenced penitentials. It appears in the penitentials of Finnian, Columban, Theodore, St. Gall, and the Bigotian penitential. The most interesting variation on this tradition appears

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<sup>230</sup> Regino of Prum, 264-265. “Si cuius uxor adulterium perpetravit, et hoc a viro deprehensum fuerit et publicatum, dimittat uxorem, si voluerit, propter fornicationem; illa vero VII annis publice poeniteat...”

<sup>231</sup> McNiell and Gamer, “The Penitential of Theodore” in *Handbooks*, 192-193.

<sup>232</sup> Drew, *Lombard Laws*, 176-7.

<sup>233</sup> McNiell and Gamer, “The Penitential of Finnian” in *Handbooks*, 94.

in its second manifestation, in the penitential of Columban, written around 600. The canon says that

If any layman begets a child of another's wife, that is, commits adultery, violating his neighbor's bed, he shall do penance for three years, abstaining from juicy foods and from his own wife, giving in addition to the husband the price of the violated honor of his wife, and so shall his guilt be wiped off by the priest.<sup>234</sup>

This canon, as well as its repetition verbatim in the penitential of Haltigar, is the one notable exception to the above observations regarding the tendency of the penitentials to ignore the need for public catharsis of any kind. It more clearly resembles the early Germanic law codes examined earlier in this chapter, a resemblance which is not found anywhere else in the penitentials under consideration. This canon is also the branching off point for the second major adultery tradition in the penitentials, and the most popular one. Out of the eighteen penitentials under examination here which give penances for adultery fully half of them give a penance of three years. The prescription seems to have been most popular between 650 and 750 and can be found most often in the Anglo-Saxon penitentials. Usually the stipulation that either a child was conceived of the union or the offended party was your neighbor or both was included but such was not always the case. The canon can be found in use up until the Pseudo Egbert penitential around the year 1000.

The last major tradition to start regarding adultery -and the second most popular- can be found in the late seventh century penitential of Theodore. In two separate canons he sets a penance of seven years for adultery. They state "He who puts away his wife and marries another shall do penance with tribulation for seven years..." and "An adulterous

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<sup>234</sup> "The Penitential of Columban" in *Ibid.*, 254.



woman shall do penance for seven years.”<sup>235</sup> This canon can be found in eight of the eighteen penitentials which deal with adultery; although in some cases it is used specifically for women. It is also most popular in the Anglo-Saxon penitentials.

As with any of the other topics discussed in this study, there are some interesting outliers. The penitentials of Bede, Pseudo-Bede and Regino of Prum all prescribe a penance of only two years if only one party in the affair is married.<sup>236</sup> The penitentials of St. Gall, Regino of Prum, and Pseudo-Bede all have canons giving five years as a possible punishment usually as the upper end of a range of time to be served.<sup>237</sup> The Canons of St. Patrick prescribe either death or excommunication for illicit love affairs when they say “A Christian woman who takes a man in honorable marriage and afterwards forsakes her first husband and is joined to an adulterer – she who does this shall be excommunicate.” Later, the author goes on to say that a woman who commits adultery “shall die for this fault.”<sup>238</sup> The penitential of Finnian stipulates that if a woman leaves her husband for another man and later wishes to return to him she should live with him as his servant in penitence for the rest of her life.<sup>239</sup>

The comparison between adultery on the one hand and murder or robbery on the other which proved somewhat useful when discussing the early Germanic law codes earlier in this chapter, is of only limited use when discussing the penitentials. There does not seem to be sufficient evidence to comment on the assumption of attendant secrecy (or

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<sup>235</sup> “The Penitential of Thodore” in *Ibid.*, 196.

<sup>236</sup> Regino of Prum, 265. Haddan and Stubbs, 328. Wasserschleben, “Poenitentie Pseudo-Beda” in *Bussordnungen*, 258.

<sup>237</sup> Regino of Prum, 265. Wasserschleben, “Poenitentie Pseudo-Beda” in *Bussordnungen*, 253. Wasserschleben, “Poenitentie XXXV Capitulum,” in *Bussordnungen*, 508.

<sup>238</sup> McNiell and Gamer, “The Canons of St. Patrick” in *Handbooks*, 79, 85.

<sup>239</sup> “The Penitential of Finnian” in *Ibid.*, 95-96.

lack thereof) of the crime and the private nature of the confessional presupposed by the penitentials makes it too complicated to make assumptions in either direction. The penitentials are generally regarded as lacking in cohesion, a reputation which I think I have gone a good way toward disproving with this study, but with regard to their prescriptions regarding theft and murder their reputation seems to be well earned, at least on the surface. Beyond a few very minor correlations, there seems to be no relationship between the penances given for adultery and those for murder or robbery. That being said, the few correlations are below. The following penitentials give the same penalty for adultery as for murder: Theodore, Pseudo-Bede, Pseudo-Egbert, the *Canones Hibernenses* and the *Collectio Canonum Hibernensis*. The penitentials of Cummean, St. Gall, and St. Hubert as well as the Bigotian penitential give the same penalty to adultery as to theft. In handbooks where both crimes are mentioned, adultery is penanced more harshly than theft. While there is no solid consensus on whether murder or adultery was considered a worse sin; nine of the fifteen handbooks where both sins were mentioned punish adultery either as harshly as or more harshly than murder. It is reasonable to believe that this is because adultery has greater potential to be disruptive to the social order than murder in medieval society. When social order depends on clear inheritance it complicates things a great deal more to add someone of dubious parentage into the inheritance system than it does to take anyone out of it.

### **So how deviant is deviant?:**

So how was a sexually deviant penitent likely to be treated? Based on the trends found in the penitentials, the worst possible thing a sinner could do, sexually that is, was

commit incest in England during the eighth century, or at least, confess to a priest who was using an Anglo Saxon penitential written during the eighth century. In fact, Incest was by far the sexual sin punished the most harshly by the penitentials in general. This is probably due less to the fact that it was viewed negatively by medieval people as a whole as to the fact that it was treated comparatively consistently throughout all the handbooks. As has been handled in further detail above, this is probably a reflection of the fact that an anti-incest program was a useful tool to aid in the further Christianization of the areas in which the handbooks were used and as a means by which the Church could gain hegemony over the institution of marriage.

After incest, the most harshly treated sexual sin was homosexuality; while this is certainly not a surprise, the treatment of this topic in the penitentials is by no means homogeneous. For example, a homosexual penitent might expect to fare better when confessing to a priest who uses an Irish penitential or in ninth century France, than they would if they confessed to a priest who used an Anglo-Saxon penitential.

The treatment of Bestiality in the penitentials is even less uniform than that of homosexuality and, as has been demonstrated above, underwent a change in associations as the medieval period wore on which greatly affected its treatment in the penitentials. Generally speaking, however, it was not treated as harshly as either homosexuality or incest. As was the case with homosexual penitents, those who were getting too personal with the livestock would have done best to seek out a priest using an Irish penitential and to have avoided those using Anglo Saxon handbooks.

Like incest, adultery seems to have been treated fairly consistently across time and geography. Unlike incest, however, adultery on average only received less than half

the maximum penance given for any sexual sin in any given handbook. In this case, however, the consistency is probably due not to an agenda on the part of the penitential authors, but to the uniform practicality of the problem adultery posed across time and geography. That being said, a would be adulterer would be best off confessing to a priest who used a penitential written in ninth century France and worst off confessing to one using an eighth century or Anglo Saxon penitential. The relative leniency with which the issue is treated in ninth century France may have something to do with the fact that the medieval Church was having a very difficult time convincing the Carolingians that polygamy was un-Christian.<sup>240</sup>

Compared to the sins discussed above, those dealing with concerns about pollution carry relatively miniscule punishments; nevertheless, if a couple felt they must have sex while the wife was menstruating or pregnant, it would be best to either confess to an Irish priest and/or do it before the eighth century. As with all of the other categories of deviance discussed above, those who are sexually adventurous in any way should avoid priests who use Anglo-Saxon penitentials.

Generally speaking, Julie Ann Smith's assertion that the penitentials are technologies of control is true.<sup>241</sup> However, the extent to which a Church agenda is played out in the handbooks seems to vary depending on the topic under consideration. The clearest example of this, sexually speaking, is the incest material. The evolution of incest regulation as developed by the Church is clearly given in top down instructional form in the penitentials, and it is no stretch to see this as part and parcel of the medieval Church's attempts to gain authority over marriages. This is really the most top down

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<sup>240</sup> D'Avray, 82-3.

<sup>241</sup> Smith, 15.

agenda driven aspect of the sexual code one can find in the penitentials, however. For the most part, the earliest handbooks seem to be tools for Christianization, or for the reinforcement of the Christian faith. The quote on page twenty eight above from the penitential of Finnian gives instruction in the basic tenets of medieval Christian belief on marriage and gives no punishment. It requires no additional knowledge of the Bible to understand, and is short enough for a penitent to listen to and not get distracted. It is clearly meant to be instructional. The later handbooks, such as Regino's Ecclesiastical Discipline and the Pseudo Egbert Penitential are much longer and do not contain speeches which seem to be directed for the education of laypeople such as the one in Finnian. Instead, they can be seen as preaching from a position of strength. It is also the case that in these books the maximum penalties for any sexual sin tend to be higher, which suggests that the books are more about punishing than teaching.

### **Transgressing and Preserving the Sexual Sacred:**

This study started out by talking about how “holiness means keeping distinct the categories of creation” and specifically how this applied to the medieval sexual morality and the necessity of keeping separate the carnal and the spiritual.<sup>242</sup> In terms of their sexual content, the penitentials can best be described as tools for doing just that. They were a tool for privately returning transgressors of the sexual right order to ‘normal’ socio-sexual function with as little communal damage as possible and, at least early on, while teaching them why good Christians don’t do what they did. They contain implicit messages about the importance of separateness to the social order – the sins of clerics are always kept separate from the sins of laymen, the sins of men are often separate from the

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<sup>242</sup> Douglas, 53.

sins of women and so on. It is on this last differentiation that I would like to comment further. The picture the penitentials show us is of a married male dominated sexuality – this is the general audience of the penitentials. However, the instances in which the target audience changes provide an insight into the viewpoint of the penitential authors regarding the sexuality of their female parishioners.

In her book, *Ordering Women's Lives*, Julie Ann Smith asserts that the confessional handbooks took a “compassionate view” of women’s sexual sin.<sup>243</sup> She is really only referring to incest and rape and claims that this compassion is borne out of a recognition that women are not wholly under their own power when she makes this assertion but it is one which nevertheless deserves to be investigated. As has already been touched on above, incest was treated the most harshly out of any sexual sin, although it is just as likely if not more so that this is due to the medieval Church’s desire to gain authority over marriage than out of any desire to protect women. Although it was not included in this study, research on penitential treatment of contraception indicates that where it was mentioned at all, it was treated quite leniently, even in the Anglo-Saxon penitentials, which could be an indicator of compassion, particularly as some of the later penitentials mention the financial hardship additional children might put on the mother. The case for a lack of compassion for women’s sexual sin, and a distinct unease with female sexuality, is far easier to make, however. For example, the penitential of Theodore gives a penance of three weeks for a man who masturbates; his canon on female masturbation reads “If a woman practices vice with a woman, she shall do penance for

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<sup>243</sup> Smith, 42.

three years. If she practices solitary vice, she shall do penance for the same period.”<sup>244</sup>

The same general trend can be seen in higher penances given to women for adultery.

Both men and women can violate the distinct categories of creation needed to maintain the right order necessary to the medieval sexual morality. Men are created in the image of God, their reason is their spiritual nature, when they practice incest, or homosexuality or bestiality they were thought to be subverting their divine natures in favor of the pure carnality of lust unredeemed by procreation. Holy men could be willingly or unwillingly polluted in sacred places. However easily men could cause the spiritual and the carnal to become mixed in ways they were not supposed to be, it was immeasurably easier for women.

Regardless of the time, place, or gender of the penitent, the confessional handbooks represent technologies for keeping separate what must be separate and allowing to interact what must be allowed to interact in order to define what is both sexual and sacred in medieval Christian morality. They offer a window into the sex lives of early medieval people and into the Christianizing process. Finally, they give historians a glimpse of how medieval communities sought to negotiate the socio-sexual boundaries both before and after something went wrong.

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<sup>244</sup> McNiell and Gamer, “The Penitential of Theodore,” in *Handbooks*, 185.

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     the activity. *See* Homosexuality