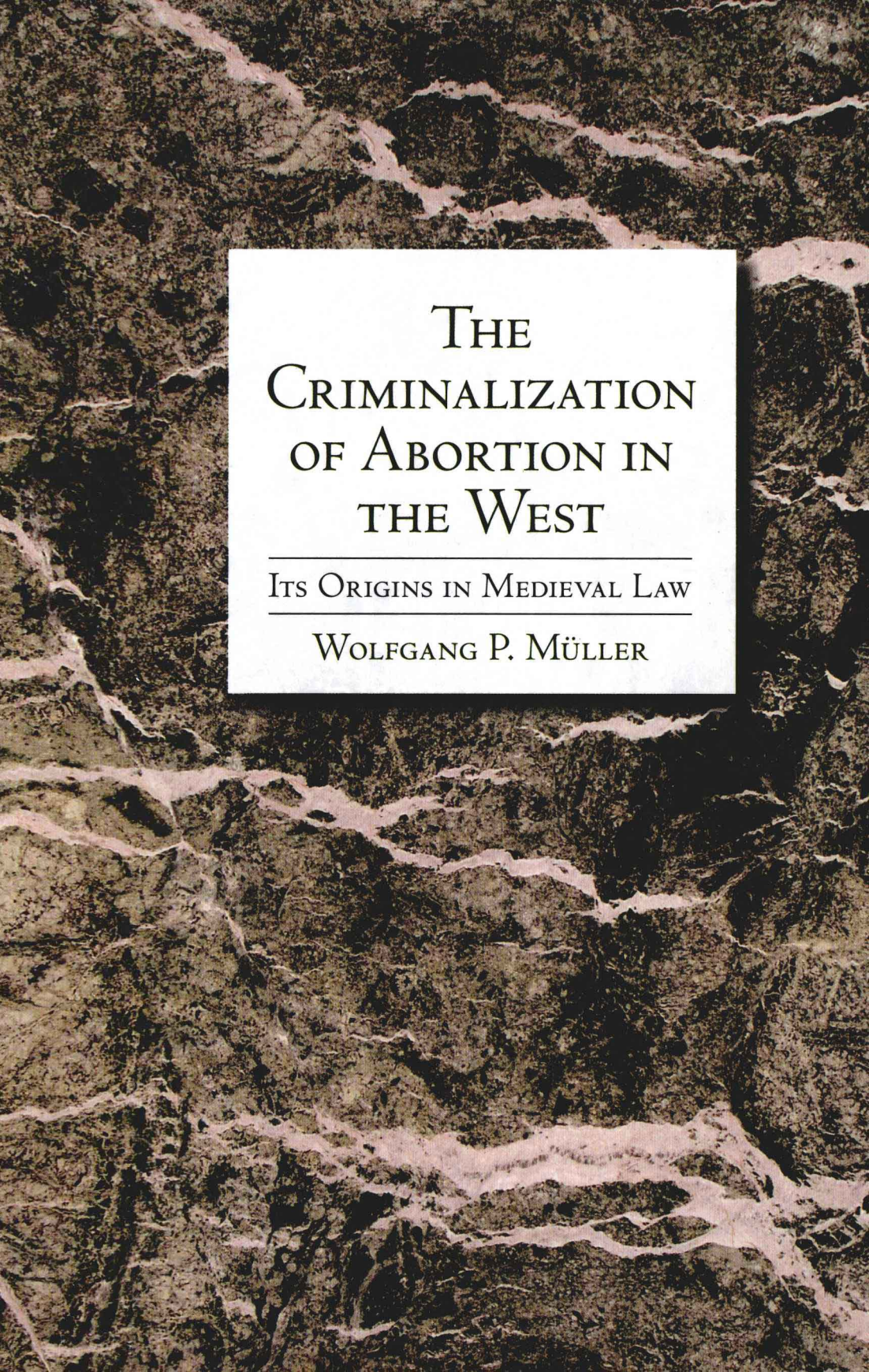
The Criminalization of Abortion in the West
Its Origins in Medieval Law
Wolfgang P. Müller

# THE CRIMINALIZATION OF ABORTION IN THE WEST

## Its Origins in Medieval Law



WOLFGANG P. MÜLLER

CORNELL UNIVERSITY PRESS
*Ithaca and London*

First published 2012 by Cornell University Press

Printed in the United States of America

Library of Congress Cataloging-in-Publication Data

Müller, Wolfgang P., 1960–
The criminalization of abortion in the West : its origins in medieval law / Wolfgang P. Müller.
p. cm.
Includes bibliographical references and index.
ISBN 978-0-8014-5089-1 (cloth : alk. paper)
1. Abortion—Law and legislation—Europe, Western.
2. Abortion—Law and legislation—History. 3. Law, Medieval. I. Title.
KJC8377.M85 2012
345′.02850940902—dc23 2011051733

Cornell University Press strives to use environmentally responsible suppliers and materials to the fullest extent possible in the publishing of its books. Such materials include vegetable-based, low-VOC inks and acid-free papers that are recycled, totally chlorine-free, or partly composed of nonwood fibers. For further information, visit our website at www.cornellpress.cornell.edu.

Cloth printing 10 9 8 7 6 5 4 3 2 1

# ACKNOWLEDGMENTS

Work on what would become the present book started in the spring of 2002, when Anne Lefebvre-Teillard (Institut Catholique de Paris) and Frank Roumy (Université de Paris XI, now at Paris II) invited me to present my vision of medieval canon law over the course of four seminar sessions to their graduate students. Left subsequently with a considerable stack of lecture notes, I developed the idea of writing a short introduction to the subject, which would point to omissions and shortcomings in scholarship apart from the conventional summary of previous historiography. The principal outcome of this initial work phase was my essay "Church Law as a Field of Historical Inquiry," which my coeditor, Mary E. Sommar, and I placed at the beginning of our 2006 essay collection in honor of Kenneth Pennington.

By 2005 I had realized that my original attempt to add proper historical dimension to the study of medieval church law had been too narrow in scope. The twelfth-century rise of canon law schools, systematized canonical doctrine, and uniform judicial procedures could not be isolated from parallel developments in the secular and penitential spheres; and my methodological critique of legal historiography risked excessive abstraction without continuous reference to concrete examples and original source material. To mend the situation, I decided to fold into the narrative the results of my earlier research on the criminalization of abortion from 1140 to 1650, conducted between 1992 and 1999 and published in 2000 as a monograph under the German title of *Die Abtreibung.*

In the fall of 2006 an outline of the definitive nine chapters was in place, and the draft stage got under way. It continued uninterrupted until the spring of 2009 and still required two substantive revisions thereafter, one in the spring of 2010 and another in May–June of 2011. Undoubtedly, the process would have taken even longer had it not been for the generous financial and logistical support of several institutions. My gratitude returns yet again to my Parisian hosts of 2002, without whom there might not have been a prime mover for the project. Moreover, significant monetary help in the form of a

research fellowship was offered by the Gerda-Henkel Stiftung in Düsseldorf, Germany, during my sabbatical year of 2004–5, which in turn had been granted by my academic home, Fordham University, and was to be supplemented by another Fordham Faculty Fellowship in the spring of 2010. Fordham also provided me with a semester-long leave of absence for the spring of 2007, allowing me to write and bask in the hospitality of Sverre Bagge and Torstein Jørgensen at the Centre for Medieval Studies in Bergen, Norway.

Among those who lent their expertise and particular energy to the making of this book, I find for the third time reason to include Franck Roumy, who went far out of his way to invite and accommodate me in France in 2002. I am also grateful to Mary E. Sommar (now at the University of Pennsylvania in Millersville) for having been the first native to confront this foreigner's infelicities of expression over the whole length of my earliest manuscript version. Idiomatic alerts came from many others as well, of whom I wish to name Ken Pennington (Catholic University of America), my adviser, once and always. Ken's enduring support over the years has been rivaled only by Ludwig Schmugge (Zurich and Rome), who as director of the Repertorium Poenitentiariae Germanicum never stopped looking out for me from the beginnings of our collaboration in the Vatican Archives some fifteen years ago. Meanwhile, the most thoroughgoing suggestions for improvement of the book came from Monica Green (Arizona State University), who not only helped me with the chapter dedicated to medical matters, her main area of expertise, but also used her scarce time as leader of the 2009 National Endowment for the Humanities summer seminar, "Disease in the Middle Ages," in London to read the entire text and scrutinize it for clarity and soundness. The introduction below consists in large part of my responses to her perceptive criticism.

# ABBREVIATIONS

| | |
|---|---|
| AC | Archivio Capitolare, Archivo Capitular |
| AD | Archives Départmentales |
| AN | Archives Nationales |
| AS | Archivio di Stato |
| ASV | Archivio Segreto Vaticano, Vatican City |
| BAV | Biblioteca Apostolica Vaticana, Vatican City |
| BL | British Library, London |
| BM | Bibliothèque Municipale |
| BMCL | *Bulletin of Medieval Canon Law,* new series 1–(1971–) |
| BN | Bibliothèque Nationale / Biblioteca Nazionale / Biblioteca Nacional |
| BSB | Bayerische Staatsbibliothek |
| C. | Causa, see *Decretum* (subdivision of part two) |
| c. | *capitulum* (chapter) |
| can. | canon |
| cap. | *capitulum* |
| *CCL* | *Corpus Christianorum, Series Latina* 1–(Turnhout: Brepols, 1953–); with *CCL* cont. med. 1–(Turnhout: Brepols, 1973–) |
| *CCR* | *Calendar of Close Rolls (1216–1485)*, 66 vols. (London: HMSO, 1883–1916) |
| Clem. | *Clementinae*, ed. Emil Friedberg, *Corpus iuris canonici*, vol. 2 (Leipzig: Tauchnitz, 1881), part 4 |
| Cod. | *Codex*, see *Corpus iuris civilis* (part 3) |
| 1(–5) Comp. | *Compilatio prima* (–*quinta*), ed. Emil Friedberg, *Quinque Compilationes antiquae necnon Collectio canonum Lipsiensis* (Leipzig: Tauchnitz, 1882) |
| cont. med. | continuatio medievalis, see *CCL* |
| *Councils & Synods* | *Councils and Synods with Other Documents Relating to the English Church*, ed. Maurice Powicke and |

| | |
|---|---|
| | Christopher Cheney, 2 vols. (Oxford: Oxford University Press, 1964) |
| *CPR* | *Calendar of Patent Rolls (1216–1485)*, 59 vols. (London: HMSO, 1891–1916) |
| D. | *Distinctio*, see *Decretum* (subdivision of parts 1, 3) |
| *DA* | *Deutsches Archiv für Erforschung des Mittelalters* 1–(1943–) |
| *DBI* | *Dizionario biografico degli italiani* 1–(1960–) |
| *Decretum* | *Decretum Gratiani*, ed. Emil Friedberg, *Corpus iuris canonici*, vol. 1 (Leipzig: Tauchnitz, 1879) |
| *Die Abtreibung* | Wolfgang P. Müller, *Die Abtreibung. Anfänge der Kriminalisierung 1140–1650* (Cologne: Böhlau, 2000) |
| Dig. | *Digesta*, see *Corpus iuris civilis* (part 2) |
| d.p.c. | *dictum post capitulum* (Gratian's comment after chapter), see *Decretum* |
| fol. | *folium* (*folia*), in a manuscript |
| *HRG* | *Handwörterbuch zur deutschen Rechtsgeschichte*, 5 vols. (Berlin: Schmidt, 1971–1998) |
| Inst. | *Institutiones*, see *Corpus iuris civilis* (part 1) |
| LL | *Leges* (publication series, see *MGH*) |
| m. | membrane |
| Mansi | Gian Domenico Mansi, *Sacrorum conciliorum nova et amplissima collectio*, 31 vols. (Florence: Zatta, 1759–98) |
| *MGH* | *Monumenta Germaniae Historica* |
| pl. | *placitum*, or plea, a legal excerpt included in Anthony Fitzherbert, *La Graunde Abridgement* |
| pr. | *proemium*, the introductory portion of legal texts in the Corpus iuris civilis |
| q. | *quaestio*, see *Decretum* (subdivision of part 2) |
| *QFIAB* | *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 1–(1943–) |
| Reg. | Registrum, Register, Registro, Registre |
| *RHDFE* | *Revue historique de droit français et étranger* 1–(1922–) |
| *RIDC* | *Rivista internazionale di diritto comune* 1–(1990–) |
| *RPG* | *Repertorium Poenitentiariae Germanicum*, ed. Ludwig Schmugge et al., vol. 1–(Tübingen: Niemeyer, 1996–) |

| | |
|---|---|
| *SB* | *Settimane di studio del Centro italiano di studi sull'alto medioevo* 1–(1956–) |
| *SG* | *Studia Gratiana* 1–(1953–) |
| s.v. | *sub verbo*, medieval commentary "on the words" |
| Tanner | *The Decrees of the Ecumenical Councils*, trans. Norman Tanner, 2 vols. (Washington, DC: Catholic University of America Press, 1990) |
| TNA | The National Archives, Kew (England) |
| *TRG* | *Tijdschrift voor Rechtsgeschiedenis* 1–(1918–) |
| *Typologie* | *Typologie des sources du moyen âge occidental* 1–(Turnhout: Brepols, 1972–) |
| UL | University Library |
| *Vulgata* | *Bibliorum sacrorum iuxta Vulgatam Clementinam nova editio*, ed. Alois Gramatica (Vatican City: Polyglotta Vaticana, 1929), or any later edition |
| X | *Liber extra* (*Decretales Gregorii IX*), ed. Emil Friedberg, *Corpus iuris canonici*, vol. 2 (Leipzig: Tauchnitz, 1881), part 3 |

# CONTENTS

# Introduction

This book is concerned with the historical processes by which, over the course of the High and later Middle Ages, abortion as such—or what in American English denotes the termination of a pregnancy at the will of the pregnant woman herself—came to be treated as worthy of criminal punishment. To find the act for the first time identified as a "crime" in the modern sense of the word one has to go back to the writings of twelfth-century teachers at the emerging schools of ecclesiastical (or canon) and Roman law in the northern Italian city of Bologna. It was there that the present-day notion of crime was differentiated systematically and in wholly unprecedented fashion from other forms of wrong such as "sin" and "tort." And since then a theoretical consensus as to the proper meaning of these terms was perpetuated institutionally at centers of jurisprudence housed in so-called universities.

Jurists who worked during the formative phase of academic (or scholastic) law were quick to agree with Gratian, the author of the oldest canonistic textbook (ca. 1140), that the killing of a human fetus would constitute homicide and warrant identical punitive measures. They also followed another of Gratian's suggestions to the effect that the humanity of unborn life was not the immediate result of conception but rather occurred subsequently, that is, when embryonic existence acquired limbs and human shape with the infusion of an immortal soul. In prevailing lawyerly opinion, this decisive event

came about sometime early during gestation if not, according to the civilian Azo Porticus (fl. 1190), either forty or eighty days into the pregnancy, depending on whether the expected baby was a boy or a girl.

The basic outline of this theory soon enjoyed wide circulation with its insistence on the complete equation of abortion and homicide as long as the slain victim possessed human form. By 1250 it must have been known all across the Latin Christian world, from Portugal and Ireland in the extreme west to Poland and Hungary in the east. Its thoroughgoing dissemination was secured by church officials whose hierarchy adopted the teachings of academic jurisprudence from the outset as its general law. Where lay jurisdictions, on the other hand, were slow to embrace the doctrine (in Germany, for example), or failed altogether to do so (as in England), the rules provided by Gratian, Azo, and their colleagues were nevertheless preached in the ecclesiastical sphere and insisted upon in sermons, private confessions, and courts of spiritual adjudication.

The road from theory to practical implementation was a very long and arduous one. The oldest known trial from Italy that fully adheres to the significance of the terms "criminal" and "abortion" in modern parlance was recorded in Venice during the month of June 1490, some three hundred years after Bolognese theorists had placed the offense on a par with homicide. Similarly, instances of actual sentencing from the kingdom of France do not seem to trace back far beyond the fifteenth century. This compels us to look for earlier evidence at a different set of criminal prosecutions that also centered on charges of manslaughter in the maternal womb.[1]

Having established the parallel between death of a human fetus and homicide, Azo and Gratian exerted influence on judicial practice of their own time not so much by offering legal protection to unwanted children as by threatening criminal punishment for those who had killed an unborn child against the will of the pregnant mother. Over the course of the thirteenth and fourteenth centuries, records alluding to prenatal manslaughter as a capital offense regularly reported incidents in which the defendant was said to have caused "miscarriage by assault." From 1200 to the early 1300s, English common-law courts dealt with dozens of unborn children killed by external aggressors and granted women aggrieved by the violent termination of their

1. Early French cases of criminal abortion proper appear in two royal *lettres de remission*, dating respectively to February 1392 and July 1399; see Paris, AN, JJ 142, no. 103, in Jean-Claude Bologne, *La naissance interdite. Sterilité, avortement, contraception au moyen âge* (Paris: Orban, 1988), 287–288; and Paris, AN, JJ 154, no. 310. The Italian incident of 1490 is documented in Venice, AS, Reg. 3657, fol. 41r, and printed in *Die Abtreibung*, 245n429; cf. below, chap. 8, note 7.

pregnancies the right to press felony charges against perpetrators. In one case of 1283 or 1284, proceedings even resulted in the convict's execution by hanging, proving that summonses of this kind had to be taken seriously.[2]

Miscarriage by assault, then, figured prominently among homicide trials on account of unborn victims at least until the second half of the fourteenth century. Royal judges in France referred to it with a term of its own, *encis,* and Latin sources employed the noun *percussio* and its derivatives to describe the offense. Moreover, modern scholarship on normative sources dating from biblical to ancient times has noted that the connection between concern for the life of the human fetus and assault cases was commonplace long before twelfth-century jurists went about forging criminal law into coherent doctrine. Historians of late medieval crime have further explained the tight correlation between the two by pointing to insufficient capabilities of law enforcement on the part of investigating judges. Downward justice as it came to be wielded in monopolistic fashion by Western judiciaries after 1500 was alien to the preceding period, when inquiries into alleged crime still depended to a high degree on the private initiative of accusers. If mothers were unwilling to pursue in court injury caused to them by the premature end of a pregnancy, prosecutors possessed few practical means to safeguard the unborn baby and its right to survival as proposed by academic theorists.

Common opinion among Bolognese lawyers consistently embraced Gratian and Azo's view that homicide and the abortion of a human fetus should be subject to identical judicial standards, further implying that these were to encompass the crime of infanticide as well. The criterion of birth was of no significance to twelfth-century law teachers, who rather presented the moment of animation and formation, between forty and eighty days after conception, as the decisive prerequisite for charges of punishable manslaughter. Given the importance of scholastic jurisprudence as one of the principal agents of criminalization in the West, the following treatment will reflect these juristic parameters and discuss all medieval crime cases involving fatal attacks on "animated" life, regardless of their timing before, during, or instantly after delivery. In keeping with the same approach and again inspired by the influential doctrines of Gratian and Azo, I will omit from consideration contraception as a legal offense. Academic discourse soon reached a

2. Kew, TNA, Just. 1/547A, m. 20d; in *Die Abtreibung,* 291n497, translated by Sir John Baker in his appendix to Philip Rafferty, "Roe v. Wade: The Birth of a Constitutional Right" (PhD diss., University of Michigan, 1992), 530–531 (under the wrong date of 1318); cf. Sara M. Butler, "Abortion by Assault: Violence against Pregnant Women in Thirteenth and Fourteenth Century England," *Journal of Women's History* 17 (2005): 9–31.

consensus whereby recourse to contraceptives as such was excluded from crime strictly speaking, and debated punishment for harm caused by sterilizing potions under several separate categories of (not necessarily intended) poisoning.[3]

In many ways, late medieval scholastic notions of what was meant by criminal abortion run counter to our modern understanding of the term. Theory fused the crime with homicide overall and infanticide in particular, and judicial practice treated miscarriage by assault as the prototypical allegation of prenatal manslaughter well into the fourteenth century. Additional signs of otherness emerge, moreover, from an examination of how jurists and courts at the time employed the Latin concept of *crimen* and what mental associations it triggered. Issues of juristic nomenclature and procedure, for that matter, loom especially large in the present book. The nature and contents of the original source material render the retrieval of lived circumstances difficult if not impossible, and a thick layer of formulaic language exposes readers to narratives shaped by normative requirements and at the expense of what actually happened on the ground, be it in the privacy of homes or during interrogations. Abortion in medieval practice remains enigmatic and for the most part eludes our modern curiosity. Its vicissitudes as an offense, however, provide an excellent marker for the slow and uneven advance of academic law and its application in Western society, as it was only in conjunction with the jurisprudence of Azo and Gratian that Latin Christianity learned to regard the willful slaying of a human fetus as deserving of legal punishment.

Central to the following analysis is certainly the word "crime," which will be used consistently in the way it is invoked in everyday language today, namely, as wrongdoing requiring lawful retribution from the hands of publicly appointed officials. The closest synonym in the language of Bolognese jurisprudence would have been the Latin noun *reatum*. All the same, modern historiography has treated the English expression routinely as a rendering of its etymological ancestor, crimen, in spite of the fact that for jurists from the period prior to 1500 the latter had a much wider range of possible connotations. For depending on context, trained lawyers would have referred to crimen in not one but up to four different senses. First, they would have

3. Though rich in primary source material, the studies of John Noonan, *Contraception: A History of Its Treatment by the Catholic Theologians and Canonists,* 2nd ed. (Cambridge, MA: Harvard University Press, 1986), and John Boswell, *The Kindness of Strangers: The Abandonment of Children in Western Europe from Late Antiquity to the Renaissance* (New York: Pantheon, 1988), do not distinguish sufficiently between late medieval references to sin, crime, and tort or different forms of court proceedings.

spoken of it in now familiar fashion in order to denote a punishable crime; second, as a variety of misconduct leading to *irregularitas*, or ineligibility to higher (sacramental) rank within the ecclesiastical hierarchy; third, as sin (*peccatum*) in the modern Catholic understanding of the term—that is, as a wrong redeemable through private confession and secretly imposed works of penance (*penitentia*); and fourth, as another form of peccatum against God's justice, perpetrated publicly and worthy of atonement before everyone's eyes.

Perhaps most conspicuous, albeit barely studied by scholars, is the last-mentioned type of crimen that came to be investigated by way of public penitential proceedings. In 1995, an inquiry by the American historian Mary Mansfield challenged older work for having assumed that *penitentia publica* had quickly withered in Western Christendom after the Fourth Lateran Council of 1215 had universally obliged Christians to confess sins to their parish priest in secret and for a minimum of once a year. In liturgical sources from northern France, Mansfield had discovered that openly performed penance persisted until 1300 and possibly far beyond. Her findings were further corroborated by Friederike Neumann, whose monograph of 2008 highlights widespread application of the same disciplinary tool at the hands of fifteenth-century officials from the southern German diocese of Constance. The two authors, moreover, did not refer to earlier research by R. H. Helmholz, who in articles of the 1970s and 1980s had already observed that well-advertised rites of spiritual redemption formed a vital institution in English ecclesiastical courts until the very end of the Middle Ages. The available evidence, in short, made each author realize that in many places and for the longest time, procedures for the detection and repression of notorious or commonly known spiritual wrongs occupied a vast gray area between the domains of judicial prosecution proper and sacramental confession with its absolute insistence on privacy.[4]

While focusing on abortion, miscarriage by assault, and infanticide, the following discussion of late medieval legal realities challenges previous assumptions about the gray area and its purported intractability. Public penance, it will be argued, was subject to uniform procedural rules that canon lawyers from Gratian to Hostiensis (d. 1271) defined and systematized alongside the better-studied judicial formats of criminal accusation

4. Richard H. Helmholz, "Index: Penance, Public," in Richard H. Helmholz, *Canon Law and the Law of England* (London: Hambledon Press, 1987), 361; Mary Mansfield, *The Humiliation of Sinners: Public Penance in Thirteenth-Century France* (Ithaca: Cornell University Press, 1995); Friederike Neumann, *Öffentliche Sünder in der Kirche des Spätmittelalters. Verfahren—Sanktionen—Rituale* (Cologne: Böhlau, 2008); see also note 13 below.

and inquisition. Individuals suffering from a reputation tainted by crimen were often required to appear before their ecclesiastical judges and answer charges brought by way of anonymous denunciation (*via denuntiationis*). The process promised restoration of one's good name through (sometimes collective) oaths of innocence, or the denounced person had to submit to works of spiritual satisfaction after failing to perform sworn (com)purgation or confessing voluntarily. Strictly speaking, the late medieval church administered no more than five types of punishment: exclusion from Christian worship through personal excommunication or the interdict placed upon entire communities and regions, suspension, deposition, and degradation from clerical orders. Every other corrective means fell under the category of penitentia, a fact that historians of medieval crime have frequently overlooked.[5] The consequences of such disregard are neither trivial nor merely technical in character. To begin with, acts of atonement for those found in need of them not only comprised prayer, fasting, and other pious exercises like pilgrimage but also allowed for elaborate shaming rituals, flogging, commutation to monetary payment, and imprisonment of uncertain duration and duress. Any resemblance of the latter to criminal punishment is grossly misleading, however, given that in a penitential setting suspects had to carry the burden of proof themselves, whereas in ordinary penal proceedings they were to be considered innocent until proven guilty.[6] In addition, scholars today would be ill advised if they mistook cases of fetal or infant death recorded in the form of canonical denuntiationes as reliable indicators of an underlying fatality, because hearsay rather than solid physical and testimonial evidence was at the root of investigations into public penitential *crimina*. In other words, entries in ecclesiastical registers relating to our subject were mostly prompted by defamation (*mala fama*) and not by tangible traces of a crime.

In the twelfth and thirteenth centuries, the Latin West embarked on a path that was to distinguish it from all other civilizations by associating abortion with the new concept of criminal behavior in current parlance. Firsthand investigations into the stages of this process and its late medieval ramifications have been fairly sporadic and visibly peaked in the 1970s, when modern

5. Accordingly, the distinction highlighted by Heinz Schilling, "History of Crime or History of Sin? Some Reflections on the Social History of Early Modern Church Discipline," in *Politics and Society in Reformation Europe: Essays for Sir Geoffrey Elton on His Sixty-Fifth Birthday*, ed. Erkki Kouri and Tom Scott (New York: St. Martin's, 1987), 289–310, is applicable from the twelfth century onward.

6. Richard H. Helmholz, "The Law of Compurgation," in Richard H. Helmholz, *The Ius Commune in England: Four Studies* (Oxford: Oxford University Press, 2001), 90–124, assumes to the contrary that church and secular courts were governed by comparable standards of culpability.

legislation and a legal reform movement across the hemisphere—inspiring, among other things, the decision of the U.S. Supreme Court in *Roe v. Wade* (1973)—liberalized abortion decisively in the face of older court precedent and crime statutes.[7] With regard to significant work published by earlier generations of historians, mention must be made of Siegfried Schultzenstein's article on the normative situation in premodern and early modern France (1904–5) and of Franz Dölger's essay on antiquity (1934).[8] There is also the doctoral dissertation (1942) of Roger John Huser, who tracked pertinent sources in church law, and Giuseppe Palazzini's substantive survey of the medieval evidence (1943), which for the remainder of the century furnished numerous authors with an important data mine.[9] More recent studies steering clear of political partisanship and aiming instead at an improved knowledge of the medieval documentation include the inquiries of Yves Brissaud for France (1972) and Giancarlo Garancini for Italy (1975) and the discussion of ecclesiastical church registers from England by R. H. Helmholz (1975).[10] The fullest analysis of any legal system and its handling of abortion prior to the year 1500 is available for the common law of the English crown. Consultation of the findings, however, is complicated by the circumstance that the seminal observations of Harold Schneebeck (1973) and Sir John Baker's assemblage of accurately translated primary sources (1992) can be accessed only as part of typewritten dissertations.[11]

---

7. List of United States Supreme Court Decisions, 410 U.S. 113, 113–179 (1973).

8. Siegfried Schultzenstein, "Das Abtreibungsverbrechen in Frankreich," *Zeitschrift für vergleichende Rechtswissenschaft* 17 (1904): 360–421; ibid. 18 (1905): 266–312; Franz Dölger, "Das Lebensrecht des ungeborenen Kindes und die Fruchtabtreibung in der Bewertung der heidnischen und christlichen Antike," in *Antike und Christentum. Kultur-und religionsgeschichtliche Studien,* vol. 4 (Münster: Aschendorff, 1934), 1–61.

9. Roger J. Huser, *The Crime of Abortion in Canon Law: An Historical Synopsis and Commentary,* Collected Study Series 162 (Washington, DC: Catholic University of America Press, 1942); Giuseppe Palazzini, *Ius fetus ad vitam eiusque tutela in fontibus ac doctrina canonica usque ad saeculum xvi* (Urbania: Bramantes, 1943). Both are consulted by John Noonan, "An Almost Absolute Value in History," in *The Morality of Abortion: Legal and Historical Perspectives,* ed. John Noonan (Cambridge, MA: Harvard University Press, 1970), 1–59.

10. Yves Brissaud, "L'infanticide à la fin du moyen âge," *RHDFE* 50 (1972): 229–256; Giancarlo Garancini, "Materiali per la storia del procurato aborto nel diritto intermedio," *Jus* 22 (1975): 395–528; Richard H. Helmholz, "Infanticide in the Province of Canterbury during the Fifteenth Century," *Journal of Psychohistory* 2 (1975): 379–390 (reprinted in Helmholz, *Canon Law and the Law of England,* 157–168).

11. Harold Schneebeck, "The Law of Felony in Medieval England from the Accession of Edward I until the Mid-Fourteenth Century" (PhD diss., University of Iowa, 1973), 232–243; cf. Barbara Kellum, "Infanticide in England in the Later Middle Ages," *Journal of Psychohistory* 1 (1973): 367–388. John Baker's compilation is attached to Rafferty, "Roe v. Wade," 461–765.