Olha Stasiuk

PER VIM ET METUM: COERCION TO MARRIAGE AND MONASTICISM IN REGISTERS OF THE APOSTOLIC PENITENTIARY FOR CENTRAL EUROPE (1431-1503)

MA Thesis in Late Antique, Medieval, and Renaissance Studies.

Central European University Private University

Vienna

May 2021

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(Ukraine)

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Author's declaration

I, the undersigned, **Olha Stasiuk**, candidate for the MA degree in Comparative History, with a specialization in Late Antique, Medieval, and Renaissance Studies, with a specialization in Interdisciplinary Medieval Studies declare herewith that the present thesis is exclusively my own work, based on my research and only such external information as properly credited in notes and bibliography. I declare that no unidentified and illegitimate use was made of the work of others, and no part of the thesis infringes on any person's or institution's copyright. I also declare that no part of the thesis has been submitted in this form to any other institution of higher education for an academic degree.

Vienna, 25 May 2021

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Signature

Abstract

The Apostolic Penitentiary was a special institution in the Catholic Church and one of the key papal offices in the Late Middle Ages. The institution granted absolutions from the most severe sins (as violence against clergy) and declarations which let the petitioners avoid certain Canon Law restrictions and punishments. Since 1983, the Registers of the Penitentiary were open to scholars, and many historians used it to study violence, marital relationships, ecclesiastical institutions, etc.

The thesis aims to analyse the cases of forced monasticism and marriage in the Registers of the Apostolic Penitentiary for Central Europe between 1431 (Pope Eugene IV) and 1503 (Pope Alexander VI) to show the tendencies of coercion in medieval society and possible strategies to protest against it using Canon Law and the Penitentiary. The research reveals the patterns of coercion in the identities of the victims and oppressors, means of force, ways to protest, and gender issues. Comparing the Canon Law, medieval social practices, and the Registers, the research shows that the proclaimed consensuality of marital and monastic vows was widely violated by family members, religious and secular authorities, and it took many years and efforts for petitioners to escape and free themselves through the Penitentiary. But the narrative strategies of the petitioners were based on the Canon Law regulations, and telling the case in a particular way in the supplication was the main instrument against the coercion.

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A few years ago, I would never think that I could study medieval history or Canon Law. I am grateful to all my Ukrainian professors, whose examples and careful guidance led me to it. Oksana Bandrovska opened the world of Medieval Canon Law for me and provided me with the essential skills that are extremely helpful when I am studying canonical sources. Tetiana Hoshko supported me when I had doubts and inspired me to work harder. Volodymyr Sklokin also encouraged me to pursue my goals and gave valuable recommendations about my academic career. Above all, I would like to dedicate this thesis to the memory of Professor Ihor Skochylas, whose example convinced me to work with Church history and not to be afraid to look at it anew.

Finally, I want to thank people, who could not see me for months during the pandemics, but whose emotional support and practical help kept me all the time: my parents, my beautiful sisters, and my friends in Vienna and Lviv. Their sacrifice, love, and care always inspired me to work harder and enjoy it at the same time.

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List of Abbreviations

DG – *Decretum Gratiani*

RPG – *Repertorium Poenitentiariae Germanicum*

ST – *Summa Theologiae*

X – *Liber Extra* (*Decretales Gregorii IX*)

Introduction

When the archives of the Apostolic Penitentiary were opened for the scholars in 1983, many stories of medieval petitioners saw the daily light for the first time after scribes wrote them down. The Registers showed the colorful and vivid pictures of medieval life: clandestine marriages against parental will, clerical concubinage, incarcerations with ransom demands, political games between ecclesiastical and secular authorities, wars, plunders, evening feasts, ended with the bloodbath, and so on. But aside from involvement in crimes or illegitimate deeds, some petitioners claimed they were merely the victims of the situation and asked the Pope to liberate them from the burden they did not choose to take. These people wanted to be free from the coerced oaths, especially from the irreversible vows to enter the monastery or marriage.

The thesis aims to analyze these cases of forced monasticism and marriages in the Registers of the Apostolic Penitentiary for Central Europe between 1431 (Pope Eugen IV) and 1503 (Pope Alexander VI) in order to show the tendencies of coecion in medieval society and possible strategies to protest against it using Canon Law and the Penitentiary. As institution, the Penitentiary was a special office in the Catholic Church, which granted documents of release from the severe sins (such as violence against clergy) or declarations, allowing people to avoid Canon Law restrictions in specific circumstances (such as consanguinity), etc. Modern publications of the Registers are primarily regional, which will be covered further in the literary review. This research would use the cases from the German-speaking territories, published in the volumes of *Repertorium Poenitentiariae Germanicum: Verzeichnis der in den Supplikenregistern der Pönitentiarie vorkommenden Personen, Kirchen und Orte des Deutschen Reiches*[1] under the editing of Ludwig Schmugge.[2] The publication covered the

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[1] The source will be referenced as RPG or the Registers hereafter.
[2] Ludwig Schmugge, ed., *Repertorium Poenitentiariae Germanicum : Verzeichnis der in den Supplikenregistern der Pönitentiarie vorkommenden Personen, Kirchen und Orte des Deutschen Reiches* : 1-8 : *Eugen IV-Alexander VI : 1431 – 1503* (Tübingen, Berlin, et al.: Niemeyer - De Gruyter, 1996-2012).

geographical area from which the petitioners came from the Trento diocese (Italy) on the south to Dorpat (Estonia) on the North; from Utrecht (Netherlends) on the West to Polish dioceses such as Plock and Krakow on the East. The cases of coercion to monastery and marriage are mostly to be found in the rubric *de declaratoriis* of the Registers because the confirmations of secular life or canceling unwanted marital unions were granted in the form of special declarations. Unlikely other parts, *de declaratoriis* preserved the original petitions the most, copied almost word for word, which made it an extremely valuable part of the Registers.[3]

The Penitentiary remains in the focus of the various scholars since the day it was opened to the public. Many researchers such as Kirsi Salonen,[4] Ludwig Schmugge,[5] Peter Clarke,[6] Torstein Jorgensen,[7] Gerhard Jaritz,[8] and others studied it as a source for medieval violence, matrimony, social relationships, ecclesiastical institutions, or else; the short historiographical analysis would describe their works further in the first chapter. This research intends to cover the undeveloped topic of coerced vows in the Penitentiary, connecting it with the medieval Canon Law regulations of consent and coercion. It is essential to compare Canon Law's theory and practice to reveal how coercion was understood by canonists, popes, and medieval believers, how it was articulated in the cases, and how it influenced the decisions in the Penitentiary.

The research questions are the following: how was coercion defined in Canon Law up to the fifteenth century, especially in the norms about the marital sacrament and monastic

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[3] Kirsi Salonen and Ludwig Schmugge, *A Sip from the "Well of Grace": Medieval Texts from the Apostolic Penitentiary* (Washington, D.C.: The Catholic University of America Press, 2011), 4.

[4] Kirsi Salonen, *The Penitentiary as a Well of Grace in the Late Middle Ages: The Example of the Province of Uppsala 1448–1527* (Saarijärvi: Suomalaisen Tiedeakatemia, 2001).

[5] Ludwig Schmugge, tr. Atria A. Larson, *Marriage on Trial* (Washington, D.C.: Catholic University of America Press, 2012).

[6] Peter D. Clarke, "English Royal Marriages and the Papal Penitentiary in the Fifteenth Century," *The English Historical Review* 120, no. 488 (2005): 1014-1029.

[7] Torstein Jørgensen, "Illegal Sexual Behavior in Late Medieval Norway as Testified in Supplications to the Pope," *Journal of the History of Sexuality* 17, no. 3, (2008): 335–50.

[8] Gerhard Jaritz, "Varieties of Scandalum," in *Scandala. Medium Aevum Quotidianum. Sonderband* 22 (2008): 44-54.

vow? How many cases of force to monastery or marriage can be found in the Registers of Apostolic Penitentiary for Central Europe? What was the place of coercion in narratives of supplicants? How did they express and prove it? Who were the oppressors and victims, and how did the victims define their identities? What were the differences and similarities in marital and monastic cases? What was the correlation between the theory of Canon Law and the Apostolic Penitentiary practice in cases of coercion? Answering these questions, the research will reveal how theory, the practice of consensual vows, and the reality of medieval society coexisted and whether the Penitentiary could or could not influence the individuality of choices of medieval people.

The research compares theological, civil, and Canon Law sources, which needs applying an interdisciplinary approach. First, the textual analysis (discourse-analysis, narrative strategies) of primary sources should be used for theoretical Canon Law and registers of the Apostolic Penitentiary. Importantly, to understand the origins of Canon Law regulations, the domain of historical theology should be touched. Second, for the analysis of narrative techniques, the "pardon tales" approach of Natalie Zemon Davis, can be applied with bearing in mind that the cases in the Registers were part of ecclesiastical, not civil jurisprudence and therefore had different context and legislative language. [9] An anthropological approach will help analyze the stories of coercion and behavior of victims and oppressors. Quantitative methods would be used for each relevant pattern in cases of coercion (gender/age ratio, identification of victims and oppressors, etc.). A legal studies approach will place the obtained statistics in the context of principles of medieval canonical jurisprudence. Gender studies methods will define the main gender-related patterns in cases of force and victims' reactions to it and look into the men's and women's places in the legal discourse of coercion in Canon Law. Finally, a comparative approach will define the main differences and

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[9] Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France* (Stanford: Stanford University Press, 1987).

similarities between the theoretical Canon Law and cases of the Apostolic Penitentiary and between the marital and monastic cases.

A few words should be said about the definition of coercion in the research. The general meaning is simple: the verb "coerce" in the Merriam-Webster dictionary is described as "1.to compel to an act or choice; 2.to achieve by force or threat; 3.to restrain or dominate by force".[10] But the usage of the word in different disciplines gives it additional meanings and connotations: in historical studies, theology, medieval and modern Canon Law, coercion remains a controversial issue. For instance, modern sociologist Michael Rhodes, analyzing many approaches of studying the coercion, concludes that coercion usually is a "vice concept because it tends to convey a normative judgment without being defined as expressing a normative judgment," and that "most theorists use terms such as "coercion" in ways that accommodate and support the theories they are advocating."[11] For him, coercion should be rather a non-evaluative and purely descriptive concept. But this approach does not fit with the understanding of coercion in Canon Law, where it cannot be non-evaluative: for consensual acts, it is an impediment, which nullifies the action, and for punishments (as marriage *sub pena nubendi* after the fornication), it is a solution and a necessary penance.[12]

To define impedimental coercion in Canon Law is an another challenge. Both medieval and modern canonists started their explanation of coercion from the definition of consent, which could be violated by force: while the consent presumes "the absolute necessity of the act of will of each of the parties," coercion "*per se* is exercised on the exterior actions of the person and not on the volition."[13] This type of coercion cannot be non-evaluative, as

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[10] "Coerce," *Merriam-Webster.com Dictionary*, accessed May 20, 2021, https://www.merriam-webster.com/dictionary/coerce.
[11] Michael Rhodes, *Coercion. A non-evaluative Approach* (Amsterdam: Rodopi, 2000), 19-20.
[12] See more in Richard Helmholz, *Marriage Litigation in Medieval England* (New York: Cambridge University Press, 1974), 90-99, 179-181.
[13] Jude Chukwuma Onyeakazi, "Coercion and Fear in Marriage Today (Can. 1103): A Socio-Cultural Approach," license thesis, Pontifical Gregorian University, 2011, 14-18.

Michael Rhodes proposes: [14] for instance, in the case of marital consent, "imposing an unwanted marriage is against the law of human nature through which the human person by his own volition brings into existence a marriage he is naturally inclined."[15] The Code of Canon Law (1917) stated that for the impedimental coercion, fear had to be inflicted directly, with the external agent.[16] But what if this external force is an ecclesiastical court? The medieval canonists also asked this question, and never brought the direct answer.[17] To be clear, the definition of coercion in this research is the following: it is an evaluative concept of compelling a person to the action, using threats, violence, ecclesiastical courts or other instruments of the coercion, with the mandatory presence of the external coercer. Also, as Michael Rhodes stated, it is always a social phenomenon: it happens between persons or groups of persons;[18] so, natural phenomenon, mere circumstances, or necessity would not be analyzed as coercion.

Moreover, similarly to the medieval and modern Canon Law, coercion would be defined as the opposite concept to free consent and free will. Because of that, the second chapter would address the basic theological, civil, and Canon Law regulations of consent and coercion. The description of consent and coercion in Roman law, *Decretum Gratiani*, *Liber Extra*, *Summa Theologiae*, and other important sources would help to understand how the coercion was accepted and evaluated in the fifteenth century and why the petitioners thought that they had the legitimate rights to ask for the dissolution of forced vows. The first chapter would give the context of the petitions: what was the Apostolic Penitentiary, in which historical circumstances it was created, and how the Registers were written. The last part of this chapter would also give a short literary review describing the previous scholarship on the Penitentiary and its registers. The third chapter would provide a short analysis of the types of

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[14] Rhodes, *Coercion. A non-evaluative Approach*, 21.
[15] Onyeakazi, "Coercion, and Fear in Marriage Today," 42.
[16] CIC (1917), 1087.
[17] Helmholz, *Marriage Litigation in Medieval England*, 92-93; 179-181.
[18] Rhodes, *Coercion. A non-evaluative Approach*, 67.

cases of coercion in the source and describe how and why coercion was expressed in the narrative and which narrative strategies the petitioners and their proctors used to guarantee the favorable decision. Finally, the fourth chapter will focus on the cases of forced monasticism and marriage in the Registers, with the gender analysis concluding the thesis.

The research indeed has many limits. We cannot check if the petitioners told the truth or the oppressors were so cruel and ruthless as the victims described them. We cannot know what happened after the petitioners obtained the favorable decision. We cannot say how many victims of coercion did not come and why those who came managed to do so. The stories from the Registers are biased, re-shaped by proctors and scribes, concise and abbreviated. But they reveal how the petitioners retold the coercion many years after it happened and how they wanted their cases to be seen. Thus, even being biased and rephrased, the cases are a unique source of human relationships and consciousness in the Medieval Ages.

Chapter I. One of the Papal Tribunals but not Courts: The Phenomenon of the Apostolic Penitentiary and Its Registers

1.1 Historical background

While studying the period before a significant event, a historian always has a temptation to retell the story as a prelude to it. Likewise, when discussing the Church's history in the fifteenth century, it is hard not to think of it as a "Pre-Reformational" period. Indeed, the decline in spirituality and papal power, bureaucratization of the Church and papal offices, and tension between ecclesiastical and secular authorities are visible in the chosen timeframe and the sources, and all of that finally led to the Reformation. But people in the fifteenth century did not know that their time was "Pre-Reformational," so such an approach would be anachronistic. Instead, it is better to compare the period with the previous two centuries, a time of the fast and significant development of universities, Canon Law, and ecclesiastical institutions, which impacted the realities of the fifteenth century Catholic Church.

The most significant development of Canon Law took place in the so-called "classical period" between 1139 when Bolognian canonist Gratian wrote the first "textbook" of Canon Law (*Decretum*), and 1234 when the first systematized and ready-to-use collection of papal decretals (*Liber Extra*) appeared.[19] During this period, the innovations of Pope Alexander III, Innocent III, and the Fourth Lateran Council (1215) reformed the Church, created the base of consensual marriage and entrance in the monastery, and set a cornerstone to the political and social power of the papacy.[20] The principles of consent did not change during the next two centuries: legal commentators mainly enforced existing laws and worked on the procedures to

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[19] See more in James A. Brundage, *Law, Sex and Christian Society* (Chicago: University of Chicago Press, 1987), 229-418.

[20] Peter Landau, "Schwerpunkte und Entwicklung des klassischen kanonischen Rechts bis zum Ende des 13. Jahrhunderts" in *Stagnation oder Fortbildung? Aspekte des allgemeinen Kirchenrechts im 14. und 15. Jahrhundert*, ed. Martin Bertram (Berlin: Tübingen, 2005), 18-20.

apply them in practice.[21] To the beginning of the fourteenth century, they developed legislative language and formulas, written in papal and episcopal chanceries' formula books.[22] The most prominent figures of the period were Pope Innocent IV, Cardinal Hostiensis, and Johannes Andrea; it was the time when Canon Law became more autonomous from civil law and theology but many prejudices and outdated rules still existed, especially about women and sexual relationships, which influenced the work of ecclesiastical courts and canonists' writings.[23]

The death of the canonist Johannes Andrea of the plague, like millions of others during the Black Death, marked a significant change both in Church history and Canon Law,[24] and Avignon papacy and following Great Schism (1378-1417) influenced the situation even more. Church and papacy fell into the decline. Secular authorities, reacting to the vast social crisis, took more control over the fields, which were ecclesiastical before – for instance, the marital litigations. The ongoing demand for reform resulted in the first religious conflicts, as with John Wyclif in England and John Hus in Bohemia.[25] The popes lost not only in power but also in finances because crises, wars, and pandemics cut off many sources of revenue.[26] The financial reforms of Borgia Pope Calixtus III did not help much, because he focused mainly on further bureaucratization of the offices and made the whole system more profitable for himself and the people around him.[27] The good canonists still existed, such as Peter of Ancharano, Cardinal Zabarella, and Panormitanus, but the law became "intricate and

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[21] Brundage, *Law, Sex and Christian Society,* 417-418.

[22] Peter Herde, *Papal Formularies for Letters of Justice, (13th-16th Centuries). Proceedings of the Second International Congress of Medieval Canon Law* (Vatican: Monumenta iuris canonici, 1965), 221-233.

[23] Brundage, *Law, Sex and Christian Society*, 420-430.

[24] Landau, "Schwerpunkte und Entwicklung des klassischen kanonischen Rechts bis zum Ende des 13. Jahrhunderts," 15.

[25] Brundage, *Law, Sex and Christian Society*, 487-490.

[26] Peter Clarke, "Petitioning the Pope: English Supplicans and Rome in the fifteenth century," in *The Fifteenth Century XI: Concerns and Preoccupations*, ed. Linda Clark, vol. 10 (Woodbridge, UK: The Boydell Press, 2012), 41.

[27] Ludwig Schmugge, "The Cost of Grace. The Composition Fees in the Penitentiary, c. 1450 -1500," in: *Church and Belief in the Middle Ages. Popes, Saints and Crusades (Crossing Boundaries, Turku Medieval and Early Modern Studies)*, eds. Kirsi Salonen and Sari Katajala-Peltomaa (Amsterdam: Amsterdam University Press, 2016), 41-58.

technical": it was a period of colossal bureaucratization of Canon Law, and the Registers of the Apostolic Penitentiary were visible signs of it.[28] The canonists did not bring innovations to law but replaced old genres as *Summa* and *Apparatus* with treatise and *consilium*, dealing with specialized topics and developed the new legislative language.[29] A major focus of Canon Law development during this period was to adapt Canon Law regulations to courts, narrowing the gap between theory and practice.

The fifteenth century showed that the existing solid and developed base of Canon Law and institutions could not hold back the constant decline and bureaucratization of the ecclesiastical institutions. But the Church system still worked and thousands of petitioners came all over the Europe, seeking justice and solutions for their problems in Chancellary, Rota, and other papal offices. Among them were petitioners of the Apostolic Penitentiary who applied in person or by letter; considering the aim and functions of the institution, they could be either the most sinful or the most desperate of all people, seeking help in Rome.

1.2 The Apostolic Penitentiary and Its Registers

The Apostolic Penitentiary was a child of both the development of papacy and Canon Law in the thirteenth century and the bureaucratization of papal offices in the fourteenth and fifteenth centuries. It was "one of the papal tribunals, but not courts," which dealt mainly with the absolution of sins that local authorities could not absolve.[30] By the early thirteenth century, the number of such sins increased, and the Pope appointed a particular "penitentiary" to deal with them in his name.[31] At the same time, the tradition of penitential pilgrimage to

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[28] James A. Brundage, *Medieval Canon Law* (London: Longman, 1995), 180.
[29] Brundage, *Law, Sex and Christian Society*, 487-490; Landau, "Schwerpunkte und Entwicklung des klassischen kanonischen Rechts bis zum Ende des 13. Jahrhunderts," 23-24.
[30] Kirsi Salonen, "The Apostolic Penitentiary and Violence in Roman Curia," in *Violence and the Medieval Clergy*, eds. Gerhard Jaritz and Ana Marinković (Budapest and New York: Central European University Press, 2010), 17-19.
[31] Ludwig Schmugge, "Einleitung" in *Repertorium Poenitentiariae Germanicum: Verzeichnis Ddr in den Supplikenregistern der Pönitentiarie vorkommenden Personen, Kirchen und Orte des Deutschen Reiches : 4 : Pius II. : 1458 - 1464.* (Tübingen, Berlin, et al.: Niemeyer - De Gruyter, 1996), xi.

Rome brought thousands of penitents every year, and the priests who heard their confessions (mainly of mendicant orders) were called "penitentiaries" as well. By the mid-thirteen centuries, *penitentiarius maior* and *penitentiarii minores* finally united in the one institution, which still was not a typical ecclesiastical court, but a specific instance to ask a letter of grace;[32] as Pope Leo X said, it was the place where "salvation of souls was a daily business."[33]

The Penitentiary developed fastly with other papal offices and obtained the new responsibility in the late thirteenth century: to absolve petitioners who married with the fourth grade of affinity. The main changes happened in the fifteenth century, when the institution became one of the most important curial offices alongside the Chancellery, Chamber and Rota.[34] The first registers appeared in 1409, but they were sporadic and not unified.[35] During the pontificate of Eugen IV (1431-1447), Nikolaus V (1447-1455), and Callixtus III (1455-1458), the registers became rubricated and their number constantly grew. From Pius II's pontificate (1458-1464) onwards, the cases were systematically written and mainly survived.[36] The records being preserved improved the Penitentiary's work: the jurists could consult with the previous cases or make a copy if the letter of grace was lost.[37] As the registers showed, it was needed indeed because some people came a couple of times with the same cases to the Penitentiary, mainly because of the inconsistency of information.[38] To keep the notes concise, the registers were written in abbreviated form but the essential data such as family names, dioceses, origin, and social status of the petitioners were mentioned in each

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[32] Clarke, "English Royal Marriages and the Papal Penitentiary," 1014-1015.

[33] Ludwig Schmugge, "Female Petitioners in the Papal Penitentiary," *Gender & History* 12 (2002):685-703.

[34] Schmugge, "Einleitung", xi.

[35] There are no traces of the registers before, - see more in Salonen and Schmugge, *A Sip from the "Well of Grace,"* 6.

[36] Kirsi Salonen, "Impediments and Illegal Marriages: Marriage Petitions to the Apostolic Penitentiary during the Pontificate of Pius II (1458-1464)," *Quaderni Storici* 49, no. 146 (2014): 534-539.

[37] Schmugge, "Einleitung," xiv.

[38] Kirsi Salonen, "The Supplications from the Province of Uppsala, Main Trends and Development," in *The Long Arm of Papal Authority : Late Medieval Christian Peripheries and Their Communication with the Holy See*, eds. Gerhard Jaritz, Torstein Jørgensen, and Kirsi Salonen (Budapest and New York: Central European University Press, 2005), 49; for instance, RPG VIII.3266; 3322; 3411.

case:[39] this part was called the *expositio*, followed by the *narratio*, which retold the story, and then the *supplicatio* took place, where the request was made.[40] Similarly to the papal decretals, the decisions of the Penitentiary were not final, but the bishop or other local commissary had to check the truth of the petitioner's claim.[41]

There were four types of "grace," which a petitioner could obtain in the Penitentiary. The absolution was granted for the most severe sins such as killing the cleric or clergy's involvement in violence.[42] The dispensation was the type of document, which made Canon Law regulations more flexible for the petitioner in a particular case, not changing it for everyone. For instance, many dispensations allowed marriages in the third or fourth grade of consanguinity if a couple requested it, although in theory such marriages were forbidden. Special licenses aimed to change the daily religious practices for the petitioners due to specific circumstances: to confess to the priest from another parish or eat forbidden food in Lent due to poor health. Finally, the declarations "cleared" the reputation of petitioners who unintentionally were involved in certain crimes or oaths.[43] According to the matters and types of grace, the cases were registered under the various titles: *de matrimonialibus*, *de diversis formis*, *de declaratoriis* (declarations), *de defectu natalium*, *de uberiori* (for obtaining more than one benefice, including illegitimate children), *de promotis et promovendis* (ordinations to religious orders), and *de confessionalibus* (private confessions).[44] Declarations were the documents that most victims of coercion to marriage or monastery asked for, so these cases of

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[39] Paolo Ostinelli, "Penitentiary Evidence and Local Archive Material: The Case of Upper Italy, 1438-1484," in *The Apostolic Penitentiary in Local Contexts*, ed. Gerhard Jaritz (Budapest and New York: Central European University Press, 2007), 12-13.

[40] Salonen and Schmugge, *A Sip from the "Well of Grace,"* 89-93.

[41] Ludwig Schmugge, "Barbara Zymermanin`s Two Husbands," in *Medieval Church Law and the Origins of the Western Legal Tradition: A Tribute to Kenneth Pennington*, eds. Wolfgang P. Müller and Mary E. Sommar (Washington, D.C.: Catholic University of America Press, 2006), 292.

[42] See more in Gerhard Jaritz and Ana Marinković, eds., *Violence and the Medieval Clergy* (Budapest and New York; Central European University Press, 2010).

[43] Salonen, " Impediments and Illegal Marriages," 535.

[44] Salonen and Schmugge, *A Sip from the "Well of Grace,"*18; however, the scribes could make a mistake and register the case under the wrong rubric, see more in Schmugge, "Einleitung", xxii.

oppression are mostly to be found under *de declaratoriis*. Instead, cases of coercion to oath appeared in *de diversis formis*: they were not so unified as marital or monastic coercion cases.

The systematized Registers reveal the work of hundreds of jurists and clerks. In the fifteenth century, similarly to many other ecclesiastical institutions, the Penitentiary had its own bureaucratic apparatus. Proctors wrote the supplications on behalf of the petitioners. *Stilus curiae* was important to secure the requests: despite the complex and costly process of petitioning, not all supplications were accepted, and those not drawn properly or with errors in the reason of petition could be rejected.[45] The complicated requests were analyzed with the help of a particular consultant – *auditor*.[46] The preparation of the letter of grace needed much more clercs such as abbreviatores, sealers, correctors, and taxators; in sum, there were over 200 employees.[47] Often, the collaboration with other papal offices took place: for instance, jurists from Rota were consulted by officials of the Penitentiary, and the papal datary was supposed to cover the financial issues of both.[48]

Finally, the regional context of the petitions to the Penitentiary was important. Kirsi Salonen claimed that the intensity of petitions was based on a couple of reasons: the proximity of the land by itself, density of population (for instance, Northern Europe was hardly populated, especially after the Black Death), and wellness of the dioceses. The last reason did not always work, as in the case of the archdiocese of Canterbury, which was rich, but hardly presented in the Penitentiary because a local archbishop had more power than a mere bishop and could absolve his people from some sins reserved to the pope.[49] In general, Italy, the Holy

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[45] Clarke, "Petitioning the Pope: English Supplicans and Rome," 44-49; for the whole process of preparation of the supplication see more in Salonen and Schmugge, *A Sip from the "Well of Grace,"* 69-74.

[46] Clarke, "English Royal Marriages and the Papal Penitentiary," 1015-1016.

[47] Ludwig Schmugge, "Kanonistik in der Pönitentiarie" in *Stagnation oder Fortbildung? Aspekte des allgemeinen Kirchenrechts im 14. und 15. Jahrhundert*, ed. Martin Bertram (Berlin: Tübingen, 2005), 93.

[48] Kirsi Salonen, ed. *Papal Justice in the Late Middle Ages. The Sacra Romana Rota* (London: Routledge, 2016), 16.

[49] Kirsi Salonen, "The Penitentiary under Pope Pius II," in *The Long Arm of Papal Authority: Late Medieval Christian Peripheries and Their Communication with the Holy See*, ed. Gerhard Jaritz, et al. (Budapest and New York: Central European University Press, 2005), 11-17.

Roman Empire, and France kept the closest connections to the papacy: there is a vast number of petitions to the Apostolic Penitentiary from these lands.[50] This research covers mostly German cases, so it is essential to mention that the communication between Rome and German areas was very close and constant because of the concordats and their extensions in 1418, 1425, 1430, 1431, 1447, and 1448, and the good relationships between the rulers of the Holy Roman Empire and the Apostolic See. It created favorable conditions for the German petitioners to ask for grace as often as possible, and, as it would be seen in the third chapter, many of them did it because of the coerced marriage or forced entrance in the monastery.

1.3 Literary Review

The documents from the Vatican Secret Archives were hidden from the scholars for centuries.[51] Pope Leo XIII opened a part of the documents in 1881, and the long process of editing, publishing, and research started.[52] Many papal source materials were published as *Repertorium Germanicum*, the Calendar of Papal Letters (England), and the *Acta Pontificum Danica*. The focus was primarily regional because the countries sought their traces in the Secret Archives, but some scholars was also interested in particular popes (as a celebrity Innocent III) and the the functioning of the institutions in their times. Soon, the interest in institutional history decreased: from the mid-twentieth century, the significant changes in the historiographical trends returned scholars to the Secret Archives to look for traces of everyday life, woman history, canonization processes, etc. The third generation of scholars, who came after 2000, showed new interest in the papacy, but now they focus on its everyday business, collaboration, and employees more than on the mere structure of the

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[50] Piroska Nagy, "Peripheries in Question in Late Medieval Christendom," in *The Long Arm of Papal Authority: Late Medieval Christian Peripheries and Their Communication with the Holy See*, ed. Gerhard Jaritz, et al. (Budapest and New York: Central European University Press, 2005), 1-9.

[51] In sum, there are 746 volumes from 1409 to 1890 under the signum *Penitenzieria Apostolica, Registra Matrimonialium et Diversorum*; only the volumes till 1564 is open to research under certain restrictions – see more in Salonen and Schmugge, *A Sip from the "Well of Grace,"* 3-5.

[52] Salonen, *Papal Justice in the Late Middle Ages,* xi.

offices:[53] those are Ludwig Schmugge, Per Ingesman, Kirsi Salonen, Jussi Hanska and others.[54]

However, the section of the Apostolic Penitentiary was closed till 1983, presumably because of the character of the petitions.[55] After its opening by Pope John Paul II, the former archivist Filippo Tamburini did the first research.[56] Soon, Christian Krötzl who was among the first scholars outside the Vatican to receive the permit started the tendency of regional-centered projects based on the Penitentiary material.[57] The German Historical Institute in Rome provided the first large project in 1992, under the coordination of Professor Ludwig Schmugge: the main source of this research, RPG, is the result of this work.[58] In 2001, Kirsi Salonen published the first dissertation on the Penitentiary, focusing on its relations to the Swedish church.[59] In the following decades, James J. Robertson worked with the Scotland petitions, Peter Clarke and Patrick Zutshi published the cases from England and Welsh, Paolo Ostinelli studied the registers from the Como diecese, and Piroska Nagy and Katalin Szende covered East-Central European context.[60] The further comparative analysis between the regions showed interesting tendencies in the matters of petitions and their frequency: for instance, as Kirsi Salonen explained, Germans came primarily because of the illegitimacy and clandestine marriages, French petitioners were focused on confessions outside their own

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[53] Sari Katajala, Kirsi Salonen, and Kurt Villads Jensen, "In the Name of Saints Peter and Paul. Popes, Conversion, and Sainthood in Western Christianity," in *Church and Belief in the Middle Ages. Popes, Saints and Crusades (Crossing Boundaries, Turku Medieval and Early Modern Studies)*, eds. Kirsi Salonen and Sari Katajala-Peltomaa (Amsterdam: Amsterdam University Press, 2016), 14-16.

[54] Per Ingesman, ed. *Religion as an Agent of Change. Crusades – Reformation – Pietism* (Leiden: Brill, 2016); Kirsi Salonen and Jussi Hanska, eds. *Entering a Clerical Career at the Roman Curia, 1458–1471* (Burlington, VT: Ashgate Publishing, 2013); Salonen and Katajala, *Church and Belief in the Middle Ages: Popes, Saints, and Crusaders. Crossing Boundaries*; Salonen, *Papal Justice in the Late Middle Ages*.

[55] They were absolution of sins, and the secrecy of confession was always crucial for the ecclesiastical authorities from the early stages of Church History: see more in Salonen and Schmugge, *A Sip from the "Well of Grace,"* 8-9.

[56] Schmugge, "Einleitung," xii; Fillippo Tamburini, *Santi e peccatori: confessioni e suppliche dai Registri della Penitenzieria dell'Archivio Segreto Vaticano* (1451–1586) (Milan: Istituto di Propaganda Libraria, 1995).

[57] Katajala, Salonen, and Jensen, "In the Name of Saints Peter and Paul," 15.

[58] Salonen and Schmugge, *A Sip from the "Well of Grace,"* 11.

[59] Salonen, *The Penitentiary as a Well of Grace in the Late Middle Ages*.

[60] Ludwig Schmugge, "Penitentiary Documents from Outside the Penitentiary," in *The Long Arm of Papal Authority: Late Medieval Christian Peripheries and Their Communication with the Holy See*, eds. Gerhard Jaritz, Torstein Jørgensen, and Kirsi Salonen (Budapest; New York: Central European University Press, 2005), 178-180.

parish, and Italians came mainly with the marital cases.[61] Further research showed that the

Registers could reveal the traces of significant changes in the society of the period, such as the

Hussite wars or reforms of the monasticism in Europe,[62] and could be an important source of

medieval social and religious life. For instance, Elizabeth Makowski used the Penitentiary

registers from German and English regions in her study of apostate nuns; she touched the

topic of coerced monasticism, but did not focus on the narratives or male victims.[63] Various

other social phenomena such as scandals, illegal sexual behavior, or illegitimacy were studied

by Gerhard Jaritz,[64] Torstein Jorgensen,[65] Jennifer R. McDonald,[66] and others. In 2005, 2007,

and 2011, the cooperation of these scholars and some others ended up with the three volumes

about different aspects of the Penitentiary: the communication between Rome and Christian

peripheries (*The Long Arm of Papal Authority*),[67] the local context of the cases (*The Apostolic

Penitentiary in Local Contexts*),[68] and penances for medieval violence (*Violence and the

Medieval Clergy*).[69]

There is no doubt that the Registers of the Penitentiary remain a rich source for further

research. For instance, as Ludwig Schmugge showed, they still can be a unique source for

gender studies.[70] Comparing the Registers to local archives would reveal contexts that are

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[61] Salonen and Schmugge, *A Sip from the "Well of Grace,"* 26–68.
[62] Lucie Dolezalova, "But if You Marry Me: Reflections of the Hussite Movement," in *The Long Arm of Papal Authority : Late Medieval Christian Peripheries and Their Communication with the Holy See*, eds. Gerhard Jaritz, Torstein Jørgensen, and Kirsi Salonen (Budapest; New York: Central European University Press, 2005), 122-131; Gerhard Jaritz, "Monasterium Ipsum (sine licentia) exivit: A Familiar Image for the Fifteen-Century Dioceses of Passau and Salzbourg?" in *The Apostolic Penitentiary in Local Contexts*, ed. Gerhard Jaritz (Budapest and New York: Central European University Press, 2007), 86-91; Antonin Kalous, "The Official Papal Policy towards Bohemia and Moravia in the 1460s and Its Relation to the Penitentiary Office: the Case of Olomouc," in *The Apostolic Penitentiary in Local Contexts*, ed. Gerhard Jaritz (Budapest and New York: Central European University Press, 2007), 123-127.
[63] Elizabeth Makowski, *Apostate Nuns in the Later Middle Ages* (Woodbridge, UK: the Boydell Press, 2019).
[64] Jaritz, "Varieties of Scandalum," 44-54.
[65] Jørgensen, "Illegal Sexual Behavior in Late Medieval Norway," 335–50.
[66] Jennifer R. McDonald, "The Papal Penitentiary, Illegitimacy and Clerical Careers in the Peripheries: A Case Study of the Provinces of Nidaros and Scotland, 1449-1542," *Northern Scotland* 1(3) (2012): 32–44.
[67] Gerhard Jaritz, et al., eds. *The Long Arm of Papal Authority: Late Medieval Christian Peripheries and Their Communication with the Holy See* (Budapest and New York: Central European University Press, 2005).
[68] Gerhard Jaritz, ed. *The Apostolic Penitentiary in Local Contexts* (Budapest and New York: Central European University Press, 2007).
[69] Jaritz and Marinković, *Violence and the Medieval Clergy*.
[70] Schmugge, "Female Petitioners in the Papal Penitentiary," 685-703.

often lost in the Registers.[71] Because all clients were treated consistently wherever they came from, the Penitentiary materials are valuable to "observe the territorial differences in medieval marital practices."[72]

Finally, there is still a need to compare various practices from the Penitentiary with the theoretical Canon Law,[73] which is one of the focuses of the present research. Medieval ecclesiastical institutions always existed in continuity with the canonical tradition, and the Penitentiary was not an exception. The reasons why people came to the institutions, their right to make a supplication in particular circumstances, the narrative strategies they used, and the decisions which they obtained – all were based on the long development of Canon Law during the previous centuries due to the work of hundreds of canonists, judges, popes, and theologians before. Thus, before analyzing the particular cases of coercion, there is a need to reveal the basic theological, civil, and canon legislative principles, which let these cases appear in the Registers; it would be covered in the following chapter.

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[71] Schmugge, "Penitentiary Documents from Outside the Penitentiary," 177-181.
[72] Salonen, "Impediments and Illegal Marriages," 534.
[73] See the overview of Canon Law in the Penitentiary registers in Schmugge, "Kanonistik in der Pönitentiarie," 93-108.

Chapter II. Consent and Coercion in Medieval Canon Law

When an unfortunate man who slept with his neighbor and was forced to marry her or a noblewoman who escaped forced marriage by taking up monastic vows appealed to Rome, it is unlikely that they presumed interest in their cases to last for centuries.[74] However, their stories became essential precedents and a part of canonical regulations of coercion. In the Middle Ages, these regulations developed gradually, with the work of dozens of canonists, theologians, and jurists, who harmonized controversial authorities (*Decretum Gratiani*), solved unusual cases, and wrote them down (*Liber Extra*) or enforced the new rules with theological argumentations (*Summa Theologiae*). Ecclesiastical judges, advocates, proctors, and other participants of medieval ecclesiastical courts were trained in *Decretum Gratiani*, and other canonical treatises at the universities used the cases from *Liber Extra* in their everyday work and applied them in the lives of medieval people. Through themn, theoretical rules, which forbade coercion to monastery and marriage, could influence the society.

New regulation of coercion did not mean that the number of forced marriage cases dropped drastically or that parents came to their senses and stopped leaving their crying and unwilling offspring behind the monastic walls. On the contrary, research by prominent scholars as Charles Donahue, Sara Butler, Michael Sheenan, Andrew Finch, and others shows that forced marriages were always among the cases at the ecclesiastical courts, and forced monastic vows were still an important source for recruitment to traditional orders such as the Augustinians and the Benedictines.[75] But the developed regulations of coercion in Canon Law

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[74] These are the cases of G. and I. from the papal decretals in *Liber Extra*: see X 4.1.15; 4.6.7.

[75] Charles Donahue, *Law, Marriage, and Society in the Later Middle Ages: Arguments about Marriage in Five Courts* (Cambridge: Cambridge University Press, 2007); Sara M. Butler, "I Will Never Consent to Be Wedded with You! Coerced Marriage in the Courts of Medieval England," *Canadian Journal of History* 39, no. 2 (2004): 247–70; Michael Sheehan, *Marriage, Family, and Law in Medieval Europe: Collected Studies* (Toronto: University of Toronto Press, 1997); Andrew J. Finch, "Parental Authority and the Problem of Clandestine Marriage in the Later Middle Ages," *Law and History Review* 8, no. 2 (1990): 189–204; Hugh Lawrence, *Medieval Monasticism: Forms of Religious Life* (London: Longman, 1993), 114.

gave these people a chance to get rid of the unwanted *habitus* or wedding ring once and for all.

In this chapter, I will examine the roots of coercion regulations in medieval Canon Law, its development in *Decretum Gratiani*, *Liber Extra*, and later writings from the 12th to 14th century. But to thoroughly analyze the rules about coercion in medieval Canon Law, it is not a surprise that one should start with the theological and Roman Law definitions of consent and coercion. Medieval Canon Law has always been an interdisciplinary field of research because it is built on two pillars: the early civil jurisprudence, mainly Roman Law, and theology, including the Holy Scripture, writings of the Fathers of the Church, early papal decretals, and decisions of councils.

2.1 Roman Law and the Invention of *Constans Vir*

The first annulment of a contract on account of fear and coercion appeared in Roman Law in the first century BCE: *Digestae* had various explanations of pressure, force, and fear by Ulpian, Gaius, and Calsus.[76] The simplest one is by Paulus: for him, force is "an attack of a superior power which cannot be resisted."[77] Thus, the formula *per vim vel metum* appears, which would be widely used in further canonical jurisprudence up to the Apostolic Penitentiary and modern Code of Canon Law.[78] According to Ulpian, it combined necessity, opposite to will (*vis*), and the feeling of imminent or future danger (*metus*). Soon, *vis* lost its primary definition and became identified with *metus*.[79]

Another essential formula was fictitous in its character. Explaining threats, Gaius says that to nullify a contract the fear should be strong enough to "reasonably affect a man of very

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[76] Michał Wyszyński, "Metus reverentialis w rzymskim i kanonicznym prawie małżeńskim" [Metus Reverentialis in Roman and Canon Law of Marriage], *Prawo Kanoniczne: kwartalnik prawno-historyczny* 4, no. 1-4 (1961): 223.
[77] Dig. 4.2.2.
[78] CJC (1983), 1103.
[79] Onyeakazi, "Coercion and Fear in Marriage Today," 35-36.

decided character." [80] In later Canon Law, *hominus constantissimus* turned into the formula *per metum, qui potuisset cadere in constantem virum*.[81] The term had its origin in the ideals of Romans, who wanted to see themselves stable and resistant. It was also gender-inclusive; thus, later canonists had issues in applying it to women.

As to coercion into marriage, Ulpian was the first one to state that marriage is to be made by consent and not by consummation, but he meant the consent of the parties, not individuals.[82] Roman Law had a powerful institution of *paterfamilias*, who dominated the will of every individual in the household. Because only the father had the power under all members of a household, only fathers were described as sources of coercion, and this coercion did not nullify the action because it was presumed that the children should obey the father's will, so his demand did not change their will.[83] The father's choice prevailed over all others, and his coercion did not nullify the marriage. If a son was forced to marry a woman chosen by his father, the marriage remained legal because it was presumed that the son "preferred to follow his father's choice."[84] The only possibility for a girl to object against an unwanted union was when the fiancé was known for his bad conduct. It is notable that later Canon Law refused to accept this rule.[85]

The later parts of *Codex Juris Civilis* were not so strict about parental choice. Justinian made consent more pronounced in the institution of marriage and approved that the will to marry should be initiative, not continuous, which can be seen as influence of Christianity. The move to accepting the role of consent in marriage impacted the further development of the terminology of coercion and consent in medieval Canon Law. Thus, the influence of Roman

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[80] Dig. 4.2.6: "Metum autem non vani hominis, sed qui merito et in homine constantissimo cadat, ad hoc edictum pertinere dicemus."
[81] X 4.1.15.
[82] Dig. 23.1.7.1; 35.1.15; 50.17.30.
[83] Onyeakazi, "Coercion and Fear in Marriage Today," 20.
[84] Dig. 23.2.22.
[85] Dig. 23.1.12; Charles J. Reid Jr., "So It Will Be Found That the Right of Women in Many Cases is of Diminished Condition: Rights and the Legal Equality of Men and Women in Twelfth and Thirteenth-Century Canon Law," *Loyola (Los Angeles) Law Review* 35, no. 471 (2002): 491-492.

Law weakened in the early Middle Ages, only to return in papal decretals of the twelfth and thirteenth centuries.[86]

2.2 Medieval Theology and Coercion: Free Will *versus* Obedience

A theological understanding of consent and coercion was based on the concept of free will, which started to develop from the earliest stages of Christianity. Apostolic Fathers (Clement of Rome, Ignatius of Antioch), early apologists as Justin Martyr, Greek Fathers as Tertullian, Irenaeus and Origen; the Cappadocian Fathers and, finally, Saint Augustine discussed various matters of predestination, divine grace, God's, angels' and human will, especially in fighting with heresies which refused or extolled free will above all (Manicheans and Pelagians).[87] In general, free will was seen as an essential gift given to human beings, "a part of the image of God," according to John of Damascus, which we obtained in the creation and which was damaged in the Fall.[88]

Although Saint Augustine became more pessimistic in his later thoughts about free will, he set some basic principles, developed further by Anselm of Canterbury, Bernard of Clairvaux, Thomas Aquinas, and others.[89] First of all, he differentiated between "free will" (*liberum arbitrium*) and "will" (*voluntas*), correlated the relations between them as motive and act, and created the concept of "the free choice of the will."[90] He also explained free will as not libertarian but "a will that is able to do that which it ought to do," further used by Anselm of Canterbury. The latter also stated that "a man cannot will against his will because

[86] Wyszyński, "Metus reverentialis w rzymskim i kanonicznym prawie małżeńskim", 237-239.
[87] See more in Matthew Knell, *Sin, Grace and Free Will: A Historical Survey of Christian Thought,* vol. 1: *The Apostolic Fathers to Augustine* (Cambridge, United Kingdom: James Clarke & Co, 2017).
[88] Knell, *Sin, Grace and Free Will,* vol.1, 159-160.
[89] See more in Matthew Knell, *Sin, Grace and Free Will: A Historical Survey of Christian Thought,* vol. 2: *From Anselm to the Reformation* (Cambridge, United Kingdom: James Clarke & Co, 2018).
[90] Jesse Couenhoven, "Augustine's Rejection of the Free-Will Defence: An Overview of the Late Augustine's Theodicy," *Religious Studies* 43, no.3 (2007): 284.

he cannot will if he is unwilling to will"[91] – a concept relevant even to cases of marital and monastic consent. Bernard of Clairvaux, focusing on the free choice, concluded that the lack of freedom of voluntary consent meant there is neither merit nor judgment in action; but a free choice for him is the one free even from the necessity.[92] Thomas Aquinas also stated that the free choice should be free from necessity: "necessity is completely hateful to the will because this violence goes against something's natural inclination."[93] Thus, if we apply their thoughts to marital and monastic consent, they meant that the necessity would not make the consent voluntary and, therefore, valid, and the consent under compulsion cannot be judged.

Medieval theologians insisted that any consensual acts, as a marital or monastic vow, were not to fall under compulsion. Compulsory consent, as Peter Lombard stated, was a clear impediment to matrimony.[94] In cases of marriages, parties could be compelled through the court only if they were bound by oath; otherwise, "compulsory marriages are wont to have evil results."[95] The oaths were very important for Western Medieval Theology: if a man freely vowed to God, fulfilling the vow was part of the fidelity he owes to God.[96] Still, there was a difference between the vow and the mere promise, so the betrothal could be ended with entering the monastery because the promise was purely spiritual and could be dissolved by the spiritual death.[97]

Finally, till the times of Thomas Aquinas, the question of obedience was clarified, especially in marital and monastic vow cases. Obedience was still considered to be a virtue. Also, because small children did not have the "firm will," their promises or vows before puberty could be nullified. But after the age of puberty, a person could make a vow as an act of will, and parents could not intrude. Thomas Aquinas went so far to prove that, when he

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[91] Knell, *Sin, Grace and Free Will,* vol.2, 26-30.
[92] Knell, *Sin, Grace and Free Will,* vol.2, 42-47.
[93] *ST* I, Q. 82, Art. 1.
[94] *Sent*. IV, D. 29.
[95] *ST, Supplementum*, Q.43, Art.1.
[96] *ST* II-II, Q.88, Art.3.
[97] *ST, Supplementum*, Q.43, Art.3.

cited Luke 9:62, where Jesus rebuked a man who wanted to bury his father first and then follow Jesus, as an example that God is more important than any parental intentions.[98] Even as to a daughter, for Thomas of Aquinas, she was free and could "give herself into another's power without her father's consent."[99] Between obedience to parents and obedience to God, the latter was always more important from the moment a person entered the age of "firm will."[100] The development of this concept in medieval theology happened simultaneously with the development of Canon Law and was visible in the latter, as it will be shown further.

2.3 Marriage and Monasticism: Basic Issues

The norms about coercion in theology and civil jurisprudence were too general to solve the particular cases in ecclesiastical courts. Moreover, they were not always applicable because of the differences between instances of coercion. For instance, an oath extorted by incarceration did not have the same conditions as forced marriage, and entering a monastery by force could not be treated similarly to forced crime. Thus, the canonists started to work on the regulations of coercion and imply them in ecclesiastical jurisprudence. But before we move to these new regulations, some features of medieval monastic and marital vows need clarification.

First of all, what is the monastic or marital vow? It is a singular act, usually solemnly announced using a prescribed formula, which changes a person's life once and for all. Once the vow was pronounced or specific actions (such as donning the *habitus* or consummation) were completed, it could not be undone unless the judge found an error in the vow *in principio*. Secondly, both monasticism and marriage had specific "initial" stages, noviciate and betrothal respectively, which did not equal the complete vow but merely a promise to take

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[98] *ST* II-II, Q.89, Art.5.
[99] *ST, Supplementum*, Q.43, Art.5.
[100] *ST, Supplementum*, Q.43, Art.2.

it in the future; in both cases, they did not bind a person for good, so there was a chance to leave. Thirdly, both marital and monastic vows were strictly regulated by ecclesiastical authorities and institutions, even if the Church let the civil courts deal with some marital issues, for instance, dowry.

Forced marriages and monasticism were common problems of medieval society, especially for children. Thus, most regulations about coercion in canonical jurisprudence are found under titles concerning *de impuberes*.[101] This typically applied to children younger than seven years old, which was held to be the age of ability to distinguish between good or evil.[102] Neither monastic nor marital vows were valid in the age before seven or *infantia*; still, many cases of coercion happened with children far younger. After infancy, the *pueritia* period began, between seven and twelwe, in which one could be betrothed but not married yet.[103] The age from twelve for girls and fourteen for boys, was called *pubertas*, *nubiles aetatis*, *adolescentia*, or the age of reason. Most of the vows taken in this period were points of no return.[104]

While there are many similarities between marital and monastic vows, the differences are also apparent. For one, they were mutually exclusive: there were many cases when a boy or a girl escaped from the unwanted marriage or monasticism by doing the opposite— taking *habitus* or finding a spouse. Even though parental coercion was dominant in both types of vow, in marital cases, often the husband and his relatives were the active participants of the enforcement while in monasteries the abbots and fellow monks took their place. Finally, the marital cases of coercion were always more complex: the enforcement could be applied to one spouse or both, the legitimacy of children became an additional problem, and medieval

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[101] X 4.2.

[102] There were a couple of ways to divide human life in the medieval period, but *infantia* is generally described similarly; for more, see Jessica Goldberg, "The Legal Persona of the Child in Gratian's Decretum," *Bulletin of Medieval Canon Law* 24 (2000): 15-19.

[103] John T. Noonan Jr., "Power to Choose," *Viator* 4 (1973): 429-430.

[104] Goldberg, "The Legal Persona of the Child in Gratian's Decretum," 31-33.

canonists who discussed the definition and conditions of marriage for centuries further aggravated the convolutions.

2.4 *Ubi Non Est Consensus Utriusque, Non Est Conjugium*: Coercion into Marriage in Medieval Canon Law

The path to the unification of marital norms in the Church was long and challenging. Until the eleventh century, no standard regulation of marriage existed. There were a couple of biblical concepts which differentiate the Christian and pagan marriages, such as indivisibility of union, declared by Christ,[105] as well as Augustine's model of marriage, which elicited discussions but remained popular among canonists.[106] According to Augustine, marital life consists of three "goods": *fides*, *proles*, and *sacramentum*; consent, not developed in his writings, is the closest to *fides*. While other theologians and ecclesiastical authorities often wrote about marital issues, marriage was not considered a sacrament yet. It was dissolved in many cases, and the list of impediments was not regulated.

Thus, when the Bologna canonist Gratian wrote his *magnum opus* around 1139, entitled *Concordia discordantium canonum* by him and *Decretum* by most other canonists, he had to compare various local regulations, theological writings, and papal decisions to create a new model of marriage, applicable to both university teaching and ecclesiastical courts.[107] On the one hand, his impact is difficult to overestimate. He affirmed the indissolubility of Christian marriages, brought the importance of consent into Canon Law, and created a theory of errors, which could or could not cancel inappropriate union.[108] On the other hand, he followed the consummation theory of marriage, widespread among the Italian canonists, who distinguished between *matrimonium initiatum* (consent) and *ratum* (consummation), so he did

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[105] Matthew 19:5-6.
[106] *De bono conjugali* 1.32: "Haec omnia bona sunt, propter quae nuptiae bonum sunt: proles, fides, sacramentum."
[107] Brundage, *Medieval Canon Law*, 44-69.
[108] DG C.29 c.1.

not believe that mere pronouncing the words which meant consent of the future spouses would create marriage.[109] Within thirty years, Pope Alexander III accepted the consensual theory (that marriage is created by the words of consent and nothing else) for the whole church, which existed in Canon Law till the Trent Council, and influenced modern civil and canon marital law.[110]

Gratian was ambivalent about coercion into marriage, approving it in one canon and denying it in others, which led to diverse positions about his views in scholarship.[111] The *Decretum* set out that *consensus facit matrimonium*.[112] While consent for Gratian had to be confirmed by consummation, marriage without consent is null and void.[113] According to Andrew Winroth, to prove that the marriage should be consensual, Gratian used Apostle Paul's call to free marriage for widows and a couple of cases from earlier sources: Prince Jordan of Capua's daughter; King of Aragon's niece; and Queen Theuberga.[114] But all arguments and examples were indirect: for instance, Apostle Paul said nothing about marriages of unmarried daughters, who definitely had different rights from widows.[115] However, Gratian concludes that these authorities demonstrate that "no woman should be married against her will."[116] Among these canons, the motivation for saving free

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[109] James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), 223-236.

[110] James A. Brundage, "Implied consent to Intercourse," in *Consent and Coercion to Sex and Marriage in Ancient and Medieval Societies*, ed. Angeliki E. Laiou (Washington, D.C.: Dumbarton Oaks Research Library and Collection, 1993), 245-248.

[111] For instance, John Noonan was convinced that Gratian's theory of marriage was based on parental choice and lacked the practical regulations of free consent, while Jude Chukwuma Onyeakazi praised Gratian for his support of individual consent in marriage, see John T. Noonan, "Freedom, Experimentation, and Permanence in the Canon Law on Marriage," in *Law for Liberty: The Role of Law in the Church Today* (Baltimore: Helicon Press, 1967); Onyeakazi, "Coercion and Fear in Marriage Today."

[112] DG C.27 q.2 c.1.

[113] DG C.30 q.2 c.1.

[114] DG C.31 q.2 c.1; C.31 q.2 c.3-4.

[115] Anders Winroth, "Marital Consent in Gratian's Decretum," in *Readers, Texts and Compilers in the Earlier Middle Ages: Studies in Medieval Canon Law in Honour of Linda Fowler-Magerl*, eds. Kathleen G. Cushing and Martin Brett (Aldershot: Ashgate, 2008), 114-115.

[116] C.31 q.2 c.4.

will in marriage is both practical and spiritual: those who are one body should be one spirit, otherwise the forced *conjuges* may fall into sin.[117]

The examples showed the "positive" part of Gratian's marital legislation, praised by theologians, canonists, and historians.[118] However, Gratian's other canons made him a "villain" for other scholars, who claim that he supported the *paterfamilias* model of family, oppressed the will of children and especially of daughters, and hampered the development of individualistic and consensual marriage. First of all, Gratian does not comment on the story in which Humbald was forced to marry his concubine and expel his own relatives from the house.[119] Elsewhere, citing Roman law to distinguish between wife and concubine, Gratian makes the unexpected conclusion that parental consent is essential for a suitable union.[120] Parental consent as a moral and ethical prescription appeared in a few other instances: through the words of Ambrosius, Popes Evarist, Nicolas, and Leo, especially in the description of a perfect marriage, and in quotes from *Codex*.[121] The ideal woman for him is Rebecca from the Old Testament, who agreed to the choice of her parents and relatives without seeing her future spouse.[122] Quoting Pope Hormisda, Gratian says that an adult son could not be compelled to matrimonium, but a younger son can be forced into engagement, which he must conclude in marriage when he grows up.[123] Similarly to Roman Law, for Gratian, a raped girl could be wed to her rapist if the father was financially compensated.[124] Gratian was not the only one accepting the parental consent instead of

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[117] C.31 q.2 c.2.
[118] Onyeakazi, "Coercion and Fear in Marriage Today," 20-22.
[119] C.22 q.4 c22.
[120] DG C.32 q.2 c.12.
[121] DG C.36 q.22 c.9-13; C.30 q.5 c.3-4.
[122] C.32 q.2 c.13.
[123] C.31 q.2 c.2; Goldberg, "The Legal Persona of the Child in Gratian's Decretum," 33-34.
[124] C.36 q.2 c.9.

individual in the twentieth century: for instance, George Duby wrote about it as a normal practice in capitularies.[125]

How was it possible that seemingly conflicting canons appeared in the same text without reconciliation? I support Winroth's theory about two *Decreta* and two Gratians behind them. Winroth, analyzing the differences between canons (part of them are called *palea*), concludes that the first edition was completed around 1139, and a later one was finished by 1150. The first Gratian confirmed consensus and marriage free of coercion, did not use much of Roman law, and built the system of hypothetical cases and answers. His individualistic and humanistic approach to marital issues may reveal pastoral responsibilities, for instance, if he was a bishop. "Gratian 2", on the other hand, was a pure scholar, well trained in law and well-read in Church Fathers. He made a step back to *paterfamilias* and parental choice and showed more misogynistic attitudes toward women: the cases of coercion, justified by him, were mostly about forcing daughters into marriage. Gratian 2 inserted his canons between the writings of the previous author, without any effort to harmonize the final draft. The other possible explanation is that Gratian 1 and Gratian 2 were the same people but at different ages.[126]

Regardless of its authors, the work became the leading juridical textbook in the Middle Ages, so its "*discordia* of canons" led to debates and incoherence in further canonists, including discussions about coercion. In addition, *Decretum* was too theoretical and did not apply to the realities of ecclesiastical courts. The popes had to develop applicable law, solving cases from letters and plaintiffs, who came to Rome every day. Canonists carefully collected the most critical decisions as precedents, and soon, the codification of papal law or *jus*

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[125] George Duby, The Knight, the Lady and the Priest: The Making of Modern Marriage in Medieval France (Chicago: University of Chicago Press, 1993), 37-38.
[126] Winroth, "Marital Consent in Gratian's Decretum," 111-121.

novum appeared. Eventually *Decretales Gregorii IX* or *Liber Extra*, issued by order of Pope Gregory IX, became the official one.[127]

The consensual theory of marriage finally gained foothold under the reign of Pope Alexander III in the 1170s, and his follower Innocent III enforced it, turning the indissolubility of the consensual marriages into a social reality.[128] From now on the pronounced consent created the marriage, which could not be dissolved without the impediment.[129] Because papal law was precedential, the new theory of consent and coercion to marriage is easier to explain through the four stories behind them: about layman G., laywomen Mariota, Gemma, and noblewoman I.

G. was a layman who came to Pope Alexander III with a problematic situation. He accepted a woman in his house, had children with her, and claimed that he had betrothed her but never married. Once, he went to the neighborhood and slept with an unmarried daughter of his neighbor. Her father found them in bed and forced him to marry her *per verba de praesenti*—i.e. by the words in the present tense, which meant marriage, while the words in future tense meant betrothal.[130] The decretal did not say whether G. asked to anull the second marriage, it only states that he asked the pope what he had to do. Alexander III's answer was the following: if intercourse completed the betrothal with the first woman, he was legitimately married, and any subsequent vow was null and void. If the betrothal was recent and unconsummated, the second marriage was valid, unless it was contracted *per metum qui potuisset cadere in constantem virum*.[131] The fictional "stable man" was lifted from Roman Law into Canon Law, and from this point on became a measure of coercion. This case served

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[127] Brundage, *Medieval Canon Law*, 54-55.

[128] David d'Avray, *Medieval Marriage: Symbolism and Society* (Oxford: Oxford University Press, 2005), 100-107.

[129] In some rules, the rudiments of the consummation theory were left, for instance, that a non-consummated union could be freely dissolved if one spouse went to the monastery and the other desired to remarry — see more in David d'Avray, *Papacy, Monarchy and Marriage 860–1600* (Cambridge: Cambridge University Press, 2015), 157.

[130] Brundage, *Law, Sex, and Christian Society*, 338.

[131] X 4.1.15.

as a precedent for two essential innovations of Alexander III: that betrothal (vow in future tense) plus consummation was equal to marriage, and that the marriage should not be coerced.[132]

But was the same ruling applicable to women? A romantic and tragic story of Mariota, who might live near Sorano, Italy, raised the question of female coercion in the papal court. Mariota was a young girl when she fell in love with a teenager, and they held a clandestine marriage; unaware of which Mariota's parents forced her to marry another man. She publicly protested, cried, and was not willing to have intercourse. The scandal drew the attention of the bishop of Sorano, who revealed that the first marriage was null and void because of consanguinity. Tired of a long process in court, both Mariota and her second husband married other people. But Mariota's new father-in-law wanted to dissolve this marriage, and her husband went to another woman. In despair, Mariota came to Alexander III who agreed with the validity of the third marriage and threatened her father-in-law with ex-communication.[133]

This precedent emphasized that women should not be coerced into marriage and showed the tactics which many women used to fight for their free will: refusal of the consummation of the union. While marital theory in *Decretales* was already consensual, the physical union was still important for matrimony. Consummated marriage was more complicated to dissolve but the problem was that in case of husband's and wife's conflicting testimonies about the intercourse it was usually solved in favor of the man. Following Gratian, the popes declared that "man is the head of a woman," and man's words are trustworthy.[134] Gender inequality reduced women's opportunities to fight coercion, even if theoretical precepts claimed they had the right to do so. Still, the public refusal of the consummation of the union remained one of the more efficient ways to assert women's right to consensual marriage.

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[132] See more in Schmugge, *Marriage on Trial*, 91-94.
[133] X 4.1.13.
[134] X 4.2.12; X 4.2.6.

Canon Law developed further, and the subsequently increasing understanding of coercion influenced the women's position in *Liber Extra* for the better. Pope Honorius III was the first to apply the formula of *constans vir* to women, including them in the legislative narrative of coercion.[135] An important step was made by Pope Gregory IX, who proved that coercion could not be only physical but financial. In the period between 1227 and 1234, a woman named Gemma came to him claiming that her daughter had been betrothed to a certain P. before the age of seven but married another man. Now the father of the first fiancé wanted to extort money from them. Gregory IX said that *libera matrimonia esse debeant* and freed the woman from the threats.[136] Gemma's case became a precedent for coercion by financial means for canonists and scholars, which widened the usual possibilities of annulling the forced action.[137]

The next precedent shows the complex reality of coercion in the Middle Ages when monastic and matrimonial vows overlapped and contradicted. Around 1199, a noble widow, I., had been pursued by a courtier of the king of Leon for many years, but she refused to marry him. She took a monastic vow—albeit not changing her place or clothes—looked for protection in the house of a Jew and the church, and even claimed that she would kill herself but nothing helped. Eventually, she married a man and had four children with him. Liberal and humanistic Alexander III may have had freed her of both vows, but strict canonist Innocent III said that the marriage was null and void because of strong coercion, and the monastic vow was valid because it *nulla vel modica coactio adfuisset*—meaning that the fear was not strong enough and she had other opportunities.[138] Even if the decision was not in favour of the widow herself, it brought an important precedent to Canon Law by

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[135] X 4.1.28; Reid, "So It Will Be Found That the Right of Women in Many Cases is of Diminished Condition," 494.
[136] X 4.1.29.
[137] Reid, "So It Will Be Found That the Right of Women in Many Cases is of Diminished Condition," 494.
[138] X 4.6.7.

distinguishing the various types of coercion, whereby *modica coactio* was not enough to annull her vow.

There were further instruments to fight coercion in *Liber Extra*. First, the popes declared that a woman who was forced to marry had to be placed in a secure and honorable place until the litigation would end.[139] Secondly, even if a woman promised to marry a man, she could be recommended to fulfill the promise but never forced to do it.[140] *Liber Extra* also emphasized that any betrothal before the age of seven was illegitimate, and the children's consent was necessary.[141] In this period, plaintiffs, primarily women, began to appeal in court with cases of coercion, and the popes became more suspicious and cautious. If a husband could prove that there was no coercion or a woman appealed to the court too late (after a year or more), the petition would not be heard.[142] If the person proved the legitimate marriage, the ecclesiastical court could force his/her spouse to remain in the union, without considering the marraige as coercion.[143]

The commentators and canonists set out to analyze the unclear rulings in the *Liber Extra* immediately after it was published. For instance, the principle of marriage *sub pena nubendi* (as a punishment for fornication)[144] caused a lot of discussions: not all commentators agreed that the force of ecclesiastical authorities could create a valid marriage.[145] But in general, the marital theory remained the same.[146] For instance, Thomas Aquinas fully agreed with it in his writings. Although it must be noted that he did not finish the part about matrimony in *Summa Theologiae*, his opinion about the marriage is clear: matrimony is a spiritual union, not a material one, and thus consent validates it like other "sensible signs" in

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[139] X 4.1.14.
[140] X 4.1.17.
[141] X 4.2.4; 4.2.7; 4.2.8; 4.2.12.
[142] X 4.1.21; 4.1.28; 4.2.6.
[143] See similar cases in Schmugge, *Marriage on Trial*, 102-111.
[144] See more in ibid., 139-145.
[145] Helmholz, *Marriage Litigation in Medieval England,* 172-181.
[146] Brundage, "Implied consent to Intercourse," 245-249; the only significant change was that in 1274, at the Second Council of Lyons, the marriage was recognized as one of the sacraments - Salonen and Schmugge, *A Sip from the "Well of Grace,"* 22.

each sacrament.[147] Consent had to be exchanged between the future spouses, not between "parties" in which power they are: this consent was enough to create an indissoluble union.[148] Any coercion to marriage was against human nature because the inclination to marry with free will is a natural act for humans.[149] Aquinas was even bold enough to claim that a daughter can marry anyone she likes without her father's consent because her father's power does not make her a slave of his will.[150] Coercion was an impediment to matrimony for him, and he also used a formula of *constant vir* to describe that.[151]

As this chapter has discussed in detail, late medieval Canon Law built a complex body of texts, norms, and decretals against the coerced marriages. The arbitrary and often conflicting papal decretals and cases used as precedents show that theory never quite lived up to the demands of everyday practical legislation and jurisdiction, which remained inconsistent at best. The evidence surveyed in this chapter confirms the scholarly consensus that these rules were too idealistic, devised for an illusory "holy city," not for medieval reality. As noted at the beginning of this chapter and elsewhere in the present thesis, the medieval canonical regulations of marital and monastic vows revealed that the question of an individual's free will in life-changing decisions remained equally troubling and unresolved when adjudicating in countless cases of coercing individuals into monastic life and marriage.

2.5 *Si Quis Timore Mortis Religionem Profitetur*: Coercion into Monastic Vows in Medieval Canon Law

The rules of Saint Augustine and Saint Benedict seem to be oblivious about the possibility of forced entrance to monastic life. There is not a single mention about monks and novices who did not want to be in the monastery but had to stay there due to their

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[147] ST, *Supplementum*, Q. 45, Art. 1-2.
[148] Onyeakazi, "Coercion and Fear in Marriage Today," 12-13.
[149] Ibid., 42.
[150] ST, *Supplementum*, Q. 43, Art. 5.
[151] ST, *Supplementum*, Q. 47, Art. 1-6.

circumstances or fear. Moreover, the Benedictine rule prescribed that every boy willingly entering the monastery should be double-checked before taking the vow: "let him not be granted an easy entrance."[152] He should be accepted with harsh treatment, examined if he genuinely sought God, tested by spirit and intentions, and asked many times whether he still wanted to stay. Indeed, if most abbots treated the newcomers this way, there would have been no problem with forced monastic vows in the Middle Ages.

Even when Saint Benedict mentions the sons of "nobles and the poor" who were "offered" to God, he is not concerned about their willingness, but the financial issues, which may arise.[153] However, the problem of children entering the monastery existed from the very beginning of monasticism in Europe, and the early papal decretals, councils, and Church Father had to deal with it. Already in Gratian's time, two opposite attitudes appeared: that children should stay in the monastery regardless of their wishes, or be released. Here, Gratian's approach to harmonizing the discordant canons was especially suitable. As usual, the canonist starts with a hypothetical case: Two pupils were led to the monastery by their parents; one was forced, the other took the vow willingly. The first one left the monastery and became a knight, and the other wanted to transit to an order with stricter rules. Gratian asks: Should the children stay in the monastery if placed there by parents? If they were placed there by parents, can they return to the world?[154]

Starting from the earliest authorities, first it seems that Gratian takes their conservative position, which rejects children's free will. According to synodal resolutions, Gregory the Great, and Saint Augustine's writings, children placed *intra septa monasterii* by their parents, had to remain there for good.[155] Saint Isidore agreed and used the example of the prophet Samuel from the Old Testament, whom his mother Anna gave to the temple to serve

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[152] *The Rule of Saint Benedict*, 58.
[153] Ibid., 59.
[154] DG C.20.
[155] DG C.20 q.1 c.1-2.

God.[156] The Triburien Council (895) forbade a child to leave the monastery and marry. It also provided an almost poetic description of his future fate: "if he goes away, he will be returned; if he gets rid of a tonsure, it will be trimmed back; if he acquires a wife, he will be forced to send her away."[157] Thus, Gratian confirms, the authorities thought that a child should remain in the monastery. This conclusion, however, serves a rhetoric twist: he continues by citing more recent and essential sources such as the papal decretals, which supersede the outdated legislation. For instance, Popes Eugene and Marcellus forbade keeping children under forced vow.[158] The latter said that the prelate should ask a fifteen-year-old (!) child if he wants to stay because "it is useless if serving God is provided with coercion."[159] That seemed to be the final decision because Gratian moved on to another issue, not developing the discussion further.[160]

In addition, many other canons repeat his position about non-coerced monasticism, despite the vagueness of his argumentation, for example, that he used regulations pertaining to monks who took the vow with approval and free will (*proprio arbitrio et uoluntate*) and said that it is a proof for free-will monasticism.[161] Moreover, Gratian also analyzed the opposite situation, when children wanted the monastic life, but their parents disagreed: parents could cancel the children's vows only until puberty, and then they could enter the monastery either with their parents' consent or at their own will.[162] The restriction of age is connected to the age of reason mentioned above.[163] Even betrothal does not impede monasticism because the

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[156] DG C.20 q.1 c.3.
[157] DG C.20 q.1 c.6: "Quem progenitores ad monasterium tradiderunt, et in ecclesia cepit canere et legere, nec uxorem ducere, nec monasterium deserere poterit: si discesserit, reducatur; si tonsuram dimiserit, rursum tondeatur; uxorem si usurpauerit, dimittere conpellatur."
[158] DG C.20 q.1 c.7-10.
[159] DG C.20 q.1 c.10: "Illud autem statuendum esse censemus, ut, si in minori etate filii monasterio oblati fuerint, et sacram tonsuram uel uelamina susceperint, dignum quidem duximus, ut XV. anno a prelatis moniti inquirantur, utrum in ipso habitu permanere cupiant, an non? Si uero permanere professi fuerint, ulterius penitendi locum minime amplecti possunt. Sin autem ad secularem habitum reuerti uoluerint, redeundi licentia nullo modo denegetur, quia satis inutile est, ut coacta seruitia Domino prestentur."
[160] Jessica Goldberg, on the contrary, says that Gratian is more interested in the issues of free will, not in the release from monastery: see more in Goldberg, ""The Legal Persona of the Child in Gratian's Decretum," 31-32.
[161] DG C.20 q.3 c.3.
[162] DG C.20 q.2 c.1-2; C.22 q.5 c.15.
[163] DG C.22 q.5 c.14-15.

spouse's consent for entrance to the convents is needed only in matrimony; the parental choice is not mentioned here.[164]

Gratian dissolved the outdated rules of early Canon Law, but, as in many other cases, his work was too theoretical; thus, he did not provide regulations to apply his precepts in practice, which became the goal of papal decretals and *Liber Extra*. The central will to regulate forced monasticism was the resolution of the Mainz council, which said that "no one should be tonsured unless in legitimate age and voluntarily."[165] However, people came to Rome again and again, seeking solutions for their particular cases, which inspired the popes to develop the regulations further.[166] First of all, the popes enforced the distinction between novices and monks, which was hardly mentioned in Benedictine rules. The novices who did not take the vow yet could return to their previous life, serve in the world, participate in minor orders, and obtain benefits.[167] However, there were two conditions: a novice had to declare his will to return to the world, and did not take a final vow *tacite vel expresse*.[168] The novices had to wear distinct clothes; even when the clothes were not different visually, at least the monk's *habitus* had to be blessed by a priest.[169] As will be shown in cases from the Apostolic Penitentiary, regulations of the noviciate would prove to be a life-saver for victims of coercion. For those who did not cross the line between novice and monk, it was much easier to return to the world.[170]

The popes did not reconcile these decisions but solved cases individually; thus, *jus novum* was full of exciting but sometimes mutually exclusive decisions. For instance, Alexander III, famous for his unusual conclusions, allowed a boy to revoke his vow despite being in a monastery as a monk (not a novice!) for a day. Thus, the pope created a three-day

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[164] DG C.27 q.2 c.27-28.
[165] X 3.31.1: "Nullus tondeatur, nisi in legitima aetate et spontanea voluntate."
[166] Onyeakazi, "Coercion and Fear in Marriage Today," 22.
[167] X 3.31.9; 3.31.20; 3.31.23.
[168] X 3.31.20; 3.31.23.
[169] X 3.31.9; 3.31.23.
[170] For instance, in RPG V.2012.

period of grace to leave the monastic life after taking the vow.[171] In another case, he also dissolved the vow of a woman, who agreed to marry without knowing that the man was cruel and harsh; she vowed to be a nun but changed neither clothes nor place.[172] Alexander III let her stay in the world and even marry. The woman was lucky: as noted before, the noblewomen in 1199 was less fortunate in a similar situation because Pope Innocent III, stricter about canonical regulations, forced her to stay in the monastery despite having four children.[173] Alexander III also let another woman not be forced into *habitus* after her husband became a monk only because she was old and could not fall into sin.[174] The prejudices about women who were easier to lead into temptation still prevailed in the twelfth century and even influenced their right to stay *in seculum* or *habitum*.

However, one entry in the *Liber Extra* seems to restrict free will when choosing to enter the monastery. Popes approved the Council of Mainz resolution that stipulated that even if forced to monasticism, a child cannot leave the monastery or be taken by parents after a year.[175] *Decretum Gratiani* had the same rule but cited it from the earlier Triburien council.[176] Also, in order to take their child home, the parents had to go to the proper ecclesiastical authority, for instance, to a bishop. This reveals the ambivalent reality of monastic regulations in medieval Canon Law: while coercion was mostly condemned and could be used to annull the vows and actions, people had to obtain the appropriate permissions and declarations from the ecclesiastical authorities to return to the life of their own choice.[177] The Church was already a bureaucratic institution, where every action (even the legitimate ones) had to be supported by the superior's decision.

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[171] X 3.31.8.
[172] X 4.6.5.
[173] X 4.6.7.
[174] X 3.32.18.
[175] X 3.31.2.
[176] DG C.20 q.2 c.2.
[177] Makowski, *Apostate Nuns in the Later Middle Ages,* 46.

Further developments in Canon Law and medieval theology did not change much about coercion into monastic vows. In his *Summa Theologiae*, Thomas Aquinas confirmed the rule that a child's (a girl's in his case) vow to enter the monastery can be canceled by the father.[178] He explained that the Canon Law rule was taken from the Old Testament, where a girl could not make a vow of her own will because she was in her father's power. The problem is that in the Old Testament, the same was said about a married woman because she was under her husband's rule.[179] Aquinas ignored this outdated law and cited Gratian, agreeing with him that the vow would be valid even before puberty if the father did not cancel it. He also explained that the prohibition of making an oath before the age of fourteen does not affect this type of vow because there are two types of vows: simple and solemn; the girl can promise to become a nun at any age, but not to vow in her childhood.[180] Saint Thomas enforced the connection between the vow and free will and used it to prove that coercion should not take place: "the son, though being subject to his father, is not hindered from freely disposing of his person by transferring himself to the service of God, which is most conducive to man's good."[181]

The rules about coercion into a monastery in medieval Canon Law were more straightforward than those about forced marriages. While placing children in monasteries was not forbidden for good, the decision was theirs when they came to age at 12/14. The distinction between novice and monk, developed in *Liber Extra*, enforced the rule about the free entrance to the monastery: the dubious or forced novices wore different clothes and had the right to return to the world and even serve there if they wanted. The information about wearing only novice's habit was further used in the cases of Apostolic Penitentiary to prove

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[178] ST II-II, Q. 88, Art. 8.
[179] Num. 30:4-9.
[180] ST II-II, Q. 88, Art. 9; Q.89, Art.5.
[181] ST II-II, Q. 89, Art. 5.

that a girl or a boy did not enter the monastery willingly.[182] Until the later Middle Ages, the control of the Church was strict enough to demand the authorities' permission to return to the world as long as the petitioner had the right to do so. On the one hand, it gave people the instruments to prove their validity of their claim and obtain the documents confirming it. On the other hand, it opened opportunities for the abuse and misuse of authority by the Church's superiors, which was a distinct pattern of the Late Medieval and Early Modern periods.

In marital and monastic coercion, similarly to more famous problem of clandestine marriages in courts, the main problem was to prove the oppression or the action taken against it. Medieval courts relied on oral testimonies, and if there were few witnesses, if they were bribed or suddenly disappeared, the case was lost.[183] The judges and juridical consultants still had to work with the unclear definitions of coercion and decide in each case whether the evidence of fear was enough to annul the action.[184] On the contrary, evidence for coercion could be misused when a voluntary marriage became undesired for political and financial reasons, and spouses claimed in court that they had been coerced to marry.[185] The same could be done with the monastic vows.

As to gender specificity, it is clear from the cases mentioned above that women were more likely to be forced into monastery or marriage. It was more difficult for them to prove coercion because of prejudices and inequality in medieval Canon Law. For instance, Gratian used Biblical quotes and stories of Eve or Rebecca to argue that women should be controlled

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[182] For instance, in RPG V.2012, V.2001, VI.3574.

[183] Brundage, *Law, Sex, and Christian Society*, 362-382; d'Avray, *Medieval Marriage: Symbolism and Society,* 106-108.

[184] For instance, there were various explanations of what the *constans vir* meant; Hostiensis, explaining it, compared it to the fear that would imply the threats of death or bodily harm, but not all agreed with him. For more, see Reid, "So It Will Be Found That the Right of Women in Many Cases is of Diminished Condition," 494-499.

[185] One of the most famous such cases is that of Charles, Duke of Lorraine, in 1637, see John T. Noonan, Jr. "The Steady Man: Process and Policy in the Courts of the Roman Curia," *California Law Review* 58, no. 3 (1970): 628–700.

more, and referenced the Roman law tradition to exclude women from public life.[186] However, many scholars agree that Christianity brought a certain level of equality to marital life, punishing both men and women for adultery and creating the mutually consensual marriage, which favored the freedom of choice.[187] Canonists, such as Cardinal Hostiensis (c.1200-1271), were aware of gender inequality in Canon Law and emphasized the *jus mulieris*, which implied that women had rights to decide in some cases equally to men and without any coercion. Recently, Charles Reid found three such rules: women could freely choose a burial place, demand the marital debt, and, which is essential for this research, choose their marital partner. Later commentators even began to look into particular cases of coercion of women and doubted the gender-exclusive norm of *constans vir*. Hostiensis claimed that women are more vulnerable and had milder hearts (*mollice cordis*); thus, he said, a good judge should examine the circumstances, since a woman's consent might be impeded by a lesser threat than a man's.[188] However, the official sources did not develop a specific language to describe the coercion of women.

To summarize, the medieval Canon Law successfully developed the theoretical norms about coercion from Roman law and theological sources, especially by adding practical cases from papal decretals. Coercion to marital or monastic life was forbidden by canonists and could dissolve the vow or unwanted marriage. The important part of legislation against coercion was the age of novices/spouses because all actions before the age of seven could be dissolved, and children at the age of 12/14 could also cancel their vow. In practice, the unclear definitions of coercion and various misuse of ecclesiastical and parental power made a vast difference between Canon Law and reality; and all change of actions, even ones invalid because of the violation of free will, had to be made through ecclesiastical institutions. That

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[186] DG C.33 q.5 c.10-20; C.32 q.2 c.13; C.3 q.7 c.1-2.
[187] Reid, "So It Will Be Found That the Right of Women in Many Cases is of Diminished Condition," 495.
[188] Ibid., 472-512.

was the reality in which the victims of coercion lived and this was what brought many of them
to the Apostolic Penitentiary in the fifteenth century.

Chapter III. Coercion in the Registers of the Apostolic Penitentiary for Central Europe

3.1 Types of Coercion in the Apostolic Penitentiary

Violation of free will in the stories recorded in the Apostolic Penitentiary had various and different consequences. It could lead people to a life of crime or unwanted life choices (for instance, marriage), leaving them with a promise they could not keep, and so on. While it is not certain whether the actions described in the Registers were indeed forced, it can be analyzed which type of coercion people filed the most frequently: violence, oath, marriage, monasticism, and sex.

In some volumes of the Registers, violence is almost dominating *de diversis formis* part. Petitioners came to the pope to ask for the dispensation from violent acts they were involved in intentionally or unintentionally because, from the times of *Decretum Gratiani*, no cleric could carry arms without losing the right to serve and to receive benefices.[189] Various researchers have focused on violence in the Penitentiary; the most prominent collective research is *Violence and the Medieval Clergy* edited by Gerhard Jaritz and Ana Marinkovic, with contributions by Peter Clarke, Torstein Jorgensen, Etleva Lala, Kirsi Salonen, and others.[190] In many cases, clerics reported that they were forced to react to violence to defend themselves (*vim vi repellendo*).[191] Similar to Natalie Zemon Davis's "pardon tales,"[192] their excuse was often expressed through long narratives containing direct speech, intended to show the petitioner as a victim of circumstances and evil people.[193]

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[189] Peter Clarke, "The Medieval Clergy and Violence: An Historiographical Introduction," in *Violence and the Medieval Clergy*, eds. Gerhard Jaritz and Ana Marinković (Budapest and New York: Central European University Press, 2010), 5-8.

[190] Jaritz and Marinković, *Violence and the Medieval Clergy*.

[191] Gerhard Jaritz, "The Bread-Knife," in *Violence and the Medieval Clergy*, eds. Gerhard Jaritz and Ana Marinković (Budapest and New York: Central European University Press, 2010), 57; Salonen and Schmugge, *A Sip from the "Well of Grace,"* 52.

[192] Davis, *Fiction in the Archives*, 12-22.

[193] For instance, RPG VI.3493; VIII.3258; VIII.3274.

Coercion to make an oath (*juramentum*) is also very frequent in the Registers.[194] Medieval people believed in the power of promise or oath and were afraid of the consequences of breaking it even if the oath was forced. Thus, they came to the Apostolic Penitentiary to be released from the promise; for instance, Nicolaus Dorenbusch did so in 1468, when the archbishop of Mainz demanded money from him and he was kept under custody until he gave the oppressor *juramentum*.[195] In general, incarceration was often mentioned in such cases: people were forced to swear in order to be released, but did not fulfill the promise afterwards and applied to the pope to lift the oath.[196]

Coercion cases to marriage and monasticism were similar in many instances: both changed the lifestyle of the coercee irreversibly (if a victim did not obtain the declaration from the Penitentiary or another ecclesiastical institution); both were often inflicted on vulnerable segments of society such as children, orphans, widows; both present detectable patterns in their narratives. The states of marriage and monasticism were mutually exclusive, so they often overlap in these cases of coercion. Finally, coercion to sex is the least visible in the Penitentiary records because the consequences of rape were mostly dealt with in ecclesiastical courts, not in the Apostolic Penitentiary. But it can be mentioned alongside other crimes when the petitioner confessed to violent behavior,[197] or when the violence was the consequence of rape.[198]

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[194] For instance, RPG I.91; III.120; IV.1812; V.1601; VII.1711; VII.1767; VIII.3256; VIII.3350.

[195] RPG V.1507.

[196] RPG VI.3290: "Appellatione pendente exp. ad instantiam dicti Werlin in carceribus in quadam gabia stricte constructionis ac manibus et pedibus ab invicem extensis in carceribus et ferris vinculatus per 24 ebdomadas in pane et aqua detentus extitit; et sic in carceribus detentus lapsus fuit terminus sue appellationis, necnon coactus fuit in dictis carceribus renuntiari dicte sue appellationi et prosecutioni tam dicte appellationis quam actioni, necnon solvere pro ipsius litis expensis actis in carceribus habitis 100 fl. renen. [coactus fuit], necnon omnia sua bona consignare certis fideiussoribus, ut super premissa pro eo prestarent cautionem fideiussoriam prout stipulatione mediante iuram. vallata una cum dicto exp. in carceribus predictis ut premittitur existente in solidum ad sancta Dei evangelia tactis per eos et eorum quemlibet scripturis sacrosanctis corporaliter prestitis iuraverunt (…)"

[197] For instance, RPG VI.2492.

[198] For instance, RPG VI.3743.

Interestingly, the petitioners often mentioned another type of coercion, more difficult to prove: being forced by the devil.[199] Many crimes in the Registers were explained as *diabolo instignans*, expressed as mitigating circumstance, as Etleva Lala points out.[200] It is hard to tell if people believed in the devil's involvement or used it as a strategy to show that they acted out of character at the moment of the crime. But it was the only type of coercion that could not be proven; in all others, victims used various terminology to express and prove duress in their petition.

3.2 How to Express Coercion and Protest?

Unfortunately, it is unknown how exactly petitioners of the Apostolic Penitentiary described their cases in writing or coming personally to Rome and how they felt about it. They may have been scared because they disobeyed their parents or the lord; angry because they were released from prison in exchange of an unwanted marriage; or madly in love, longing to reunite with the love of their life, refusing the previous forced marriage. The language of the registers shows none of these emotions. It indicates the choice of words by the jurists, proctors, and advocates, who prepared the cases for the Penitentiary and other civil and ecclesiastical courts. They did not use everyday language, but "formulas" and "codes" of theological and juridical treatises, and there are a couple of possible reasons why they did so.

The descriptions of coercion that were already familiar for trained jurists (*per vim et metum*, *metus qui potest cadere in constantem virum*) would easier convince the judge and even the pope (if he ever got to see the case) because these formulas referenced the precedents

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[199] For instance, RPG I.153; Milena Svec Goetschi, "Thief and Arsonist: The Adventurous Fate of a Runaway Monk," in *The Apostolic Penitentiary in Local Contexts*, eds. Gerhard Jaritz, Torstein Jørgensen and Kirsi Salonen (Budapest and New York: Central European University Press, 2007), 95.
[200] Etleva Lala, " The Survival of the Catholic Church in Albania during the Period of direct contact with the Ottomans (1458-1484)," in *The Apostolic Penitentiary in Local Contexts*, eds. Gerhard Jaritz, Torstein Jørgensen and Kirsi Salonen (Budapest and New York: Central European University Press, 2007), 119.

in which the decision was acceptable for the proctor and his client.[201] For instance, in the case

of Dominica Gaspareti from the Chur diocese (1484), it was said that she was forced to marry

at a young age and when she chose to marry another man she asked for papal approval

because *matrimonia debeant esse libera*. The phrase she (or more likely, her jurist) used was

taken from a case in the *Liber Extra*, where a girl was betrothed at a young age and decided to

marry another. That girl felt pressured by the previous fiancé's father and obtained protection

from Gregory IX who decreed that marriage should be free.[202] The reference to this case or at

least to the well-known ruling from the well-known canonical source could increase the

chances for the petitioner. At the same time, as James Brundage shows, by 1250 canonists and

ecclesiastical jurists obtained elements of professionalization, and even law-trained jurists

based their studies on "formulas and precedent books."[203] Thus, they operated in the same

language, which in case of coercion had to be concise and clear enough to show the judge

whether it was sufficient to nullify the vow.

The most popular formulas used in such cases were *per vim et metum* (*vi et metu*)[204]

and *contra voluntatem*. As I mentioned in the previous chapter, *per vim et metum* rooted in

Roman law and combined the sense of unwanted necessity and the feeling of danger; soon, it

became united in a phrase, mostly identified with fear.[205] However, by the fifteenth century, it

seems to have lost the sense of particular features or level of coercion and came to mean the

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[201] Salonen and Schmugge, *A Sip from the "Well of Grace,"* 54-55.
[202] X 4.1.29: "Gemma mulier nobis exposuit, quod, quum T. filia eius cum C. contraxit matrimonium, B. de Alferio ea occasione, quod inter P. filium suum et praedictam puellam infra septennium constitutos sponsalia contracta fuerunt, poenam solvendam a parte, quae contraveniret, in stipulatione appositam, ab ipsa nititur extorquere. Quum itaque libera matrimonia esse debeant, et ideo talis stipulatio propter poenae interpositionem sit merito improbanda, mandamus, quatenus, si est ita, eundem B., ut ab extorsione praedictae poenae desistat, ecclesiastica censura compellas."
[203] Brundage, *The Medieval Origins of the Legal Profession*, 8, 356.
[204] Makowski, *Apostate Nuns in the Later Middle Ages,* 46-47.
[205] Onyeakazi, "Coercion and Fear in Marriage Today," 35-36.

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fact that force was implied.[206] Thus, to indicate the specifics of the pressure, there was a need for another formula.

First, the parents' involvement in the child's will to marry or to enter a monastery transformed the well-known *per vim et metum* into *per vim et metu parentum*, or just *metu parentum*.[207] For instance, in this way, Anna Schrotirynne, who came to the Penitentiary in 1479 from the Merseburg diocese, expressed her fear of her parents when they forced her to marry at a young age.[208] Fear of parents was a controversial issue in Canon Law because it lay somewhere between intense fear, which would annul the action, and obedience, a mandatory virtue for Christians. It was also called *metus reverentialis* to distinguish it from ordinary fear; even in the Registers; *reverentialis* is added to *metus parentum* in two cases but only when the petitioners agreed with parental choice.[209] But while in Roman law, parental force was not enough to nullify an action, sometimes (not always) it was the opposite in Canon Law.[210] As Corinne Wieben wrote, "although the Church supported the right of parents to make marriage arrangements on behalf of their children, Canon Law sought to restrict parents' ability to coerce consent from unwilling children by threats or use of force".[211]

Secondly, as noted above, the phrase *per vim et metum qui cadere poterat in constantem virum* also appeared in the Roman legislative tradition. In papal decretals it became the primary measurement of fear that was intense enough to nullify a marital or another vow.[212] The Registers show that the phrase was widely used in the fifteenth century, both by petitioners/jurists in the petitions and popes/canonists of the Penitentiary in the

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[206] For instance, in RPG VIII.3404: "exp. vi et metu sic contractum matrim. nullo umquam tempore ratificaverit seu ad id consensum prebuerit cupiatque in suis ord. et in alt. ministerio ministrare et benef. recipere."
[207] RPG VII.2634; VIII.3435.
[208] RPG VII.3683.
[209] RPG 7.2150; 7.2288.
[210] For more, see Wyszynski, "Metus reverentialis w rzymskim i kanonicznym prawie małżeńskim," 223-272.
[211] Corinne Wieben, "Unwilling Grooms in Fourteenth-century Lucca," *Journal of Family History* 40, no. 3 (2015): 266.
[212] Dig.4.2.6; X 4.1.15.

decisions.[213] As Makowski said, it could not be the ordinary fear of the parents, but could consist of "direct physical threats, beatings, and other violence including imprisonment."[214] In some cases, where the petitioners did not specify the type or conditions of coercion, the papal decision was to grant them the declaration they asked for if the fear had been strong enough to "move a stable man."[215] In other cases, the papal decision repeated this level of fear mentioned by the petitioner: he/she would be granted absolution from the monastic or marital vow only if the fear was at the level they reported.[216]

Interestingly enough, the previously mentioned discussion about "stable man" and "stable woman," vividly described by Charles Reid, also impacted the registers.[217] First, *cadere in constantem virum* applied to both men and women, as Pope Honorius III had used the phrase in *Liber Extra*.[218] For instance, this type of fear was described by seventeen-year-old Gertrude Donkers from the Utrecht diocese, placed in a monastery by her relatives; the girl finally escaped and applied to the pope in 1471.[219] Second, in one case of marital coercion and four monastic ones, the phrase *cadere poterant in constantem mulierem* appeared:[220] for instance, when a certain Aleydis from the same diocese as Gertrude complained at the Penitentiary that a local criminal, Nicolas, came to her house and forced her consent to marry him (without consummation).[221] It is uncertain what the choice of such specific language (*constans mulier*) could mean; maybe, the girl's fear itself was not very strong (as for a typical *constans vir*), but strong enough to threaten the fifteen-year-old Aleydis left alone at home. In monastic cases, it could mean lesser fear, but enough to nullify a nun's vow; we can only presume it. Even if there were not many cases with gender-specified formulas, the

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[213] Schmugge, "Kanonistik in der Pönitentiarie," 103-104.
[214] Makowski, *Apostate Nuns in the Later Middle Ages,* 47.
[215] RPG VI.3776.
[216] RPG VI.3699; VII.2522.
[217] Reid, "So It Will Be Found That the Right of Women in Many Cases is of Diminished Condition," 494.
[218] X 4.1.28.
[219] RPG V.2193.
[220] RPG 6.3592; 5.2152; 6.3612; 7.2525; 7.2527.
[221] RPG VI.3592.

general tendency was that the phrase *cadere in constantem virum,* shortened to *cadere in constantem* in the registers, applied to both men and women. On the one hand, it could mean that jurists knew the problem, which Hostiensis raised about the difference between man's and woman's fear, and for a vast number of women petitioners the wording *constans vir* did not sound good. On the other hand, it may just be the tendency to shorten the language and formulas in the Registers, which was also typical: for instance, in a long phrase, *a nonnullis tamen simplicibus et iuris ignaris ac ipsius exp. forsan emulis,* often some words were omitted, or it was shortened to *ab aliquibus tamen simplicibus, etc.,* or similar.[222] The changes do not indicate a chronological progression, but rather show the personal preference of a jurist or a notary who rewrote the case in the registers.

In addition, many other verbs and nouns were used to show that the will of a coercee was violated or influenced. These included words of mere persuasion such as *ad instantiam*, *persuadere* and *suadere*; or words of dominion and power as *mandare*, and stronger words such as *extorquere* and *compulsare*. The victims described themselves as *invitus*, *coactus*, *compulsus*, and *protestans*. The latter implies that victims desided to show their non-consent and fight with coercion, as will be examined in the following. Because the description of the cases were very concise in the Apostolic Penitentiary, we cannot find pictureous stories of protest, as in ecclesiastical courts' registers, where the whipping, long speeches, fight, bruises, chasing, and escape implied that the action was not voluntary.[223] But even the Registers had to describe the resistance of the victims to prove the coercion; the victim's silence during the

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[222] Examples of a longer version: RPG VI.2654; 2455; examples of a shortened version: RPG 6.3592; 7.2487.
[223] Lawrence Poos, "Ecclesiastical courts, marriage, and sexuality in late medieval Europe," in Troels Dahlerup and Per Ingesman, eds. *New Approaches to the History of Late Medieval and Early Modern Europe: Selected Proceedings of Two International Conferences at The Royal Danish Academy of Sciences and Letters in Copenhagen in 1997 and 1999* (Copenhagen: Det Kongelige Danske Videnskabernes Selskab, 2009), 195-198.

arranged marriages was commonly seen as agreement in medieval scholastic and canonic literature.[224]

In 1463, a somewhat scandalous case was brought to the Apostolic Penitentiary.[225] Gerard Goesvini, a priest, came to declare himself free from his forced monastic vow, but his long and detailed narrative showed ecclesiastical authorities in a bad light. He was placed in the Carmelite monastery in Perleberg (Brandenburg) at a young age and became a novice, but he wanted to return to his parents' house after six weeks. As I mentioned in the previous chapter, according to *The Rule of Saint Benedict* this should have been enough to set him free, but the monks chose not to follow the saint's prescription in this instant.[226] When Gerard ran away in the vicinity of the city, they caught him and returned him to the monastery, and against his will, moved him to the same order in Magdeburg under custody. In the following year, Gerard was looking for a way to escape, when he was finally called to the sacristy and the head of the ecclesiastical province said that he "could choose one between two: either make a vow in our order or be sentenced to prison forever."[227] The boy was scared and protested but had to take the vow. Finally, he escaped from the monastery when he had the opportunity and became a secular priest, the profession he wanted to pursue with papal permission.

Gerard's narrative is hyperbolical, and he omits essential facts (who placed him in the monastery, what age he was – being over fourteen would complicate his petition, etc.). Nevertheless, Gerard's case is an excellent example of describing coercion and protest. A boy kept *contra voluntatem suam* was taken into custody after an escape attempt. He was terrified

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[224] For instance, as Thomas Aquinas wrote, "wherefore in such a case the words of the parents are taken as being the maid's, for the fact that she does not contradict them is a sign that they are her words" - ST, *Supplementum*, Q. 45, Art. 3.
[225] RPG IV.1831.
[226] *The Rule of Saint Benedict*, 58.
[227] RPG IV.1831: "In quo quidem monasterio dum fere per annum contra voluntatem suam detentus erat, querens occasionem recedendi latenter a dicto monasterio, tunc per provincialem provincie et priorem dicti conventus ad sacristiam dicte ecclesie conventus vocatus, dictus provincialis prorupit in hec verba: "Ecce Gerarde, ex duobus oportet eligere unum : aut vos profiteri in nostro ordine aut ad perpetuos carceres condemnari."

by the words of the *provincialis provincie* and he was presented a choice in which he could not do anything else than take a vow. But the case is also an example for describing a rebel. He protested (*protestatus fuit*), sought the occasion to run away, and, casting off the forced habit, even escaped a couple of times.

Words of protest were not bound by specific formulas like the descriptions of coercion, but they could be repeated many times in one story to show that the action was not voluntary. Victims used verbs as *reclamare*, *denegare*, *protestare* (both public or clandestinely), *revolare*, *recusare*, *non consentire*, *non approbare*, *contradicere*, etc.[228] As to protest in actions in the Registers, the most popular one was absconding, both in marital and monastic cases.[229] However, it had different implications in Canon Law: leaving the monastic walls meant breaking the rule of stability and the monastic loyalty to place, community and obedience, while escape from marriage either prevented consummation as an essential part of marriage, or broke the law of man's and woman's equal rights on demanding sex. Thus, an escape contradicted the essence of both the monastic and marital vows. Describing the lack of opportunities to escape (e.g. incarceration) is an essential part of the narrative, showing the victim's continuous intention and ultimate inability to break the forced vow.

3.3 Why Mention the Coercion?

At first glance, the answer is obvious. Because both regulations of monasticism and marriage in Canon Law included consent as an essential condition, so the lack of consent nullified the vows and returned a person to the primary state, secular or single.[230] Scholars prove that medieval people usually knew the basic regulations of marital and monastic vows,

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[228] RPG I.1; V.1949; V.2070; VII.2539; VII.2595; VII.2634; VIII.3400, etc.
[229] RPG IV.1748; IV.1777; VI.3548; VI.3740; VII.2456; VII.2522, etc.
[230] X 3.31.1; X 4.1.15.

especially about free consent required in marriage, and used this knowledge in courts.[231] That

is how similar cases in *Liber Extra* were solved: for example, Mariota's forced marriage was

dissolved, and the adulterous woman, forced into the monastery by her husband, was freed

upon her word that she had never agreed to take the veil.[232] Continuous references to Canon

Law in quotes about free marriage and exaggerating the fear served to convince the judge or

jurists of the Apostolic Penitentiary of the validity of the claim presented.[233] Moreover, long

and repetitive narratives about suffering, beating, intimidation, and imprisonment were

probably meant to mollify the judge. Some petitioners had committed sins, such as fornication

or running away from the monastery. Similarly to the petitioners in Natalie Zemon Davis's

"pardon tales," they sought mercy rather than justice.[234]

However, the other reason to mention coercion before the Apostolic Penitentiary is to

confront the local rumors about one's condition. Most cases of pressure mentioned ignorant

people or even enemies (*emules*, *nonnules simplices*, etc.), who claimed that the petitioner

should stay in the monastery or be banned from another marriage. This *fama* or rumors was an

essential source of inquiry in medieval Canon Law and was always taken seriously.[235]

Moreover, from Innocent III onwards, a new procedure was invented, *per inquisitionem*, in

which there was no need for accusation to open a case; *mala fama* was the main reason to

place a person into custody. The local judge was responsible for prosecuting inappropriate

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[231] Shannon McShoffrey, "I Will Never Have None Ayenst My Faders Will": Consent And The Making Of Marriage," in *Women, Marriage, and Family in Medieval Christendom: Essays in Memory of Michael M Sheehan*, eds. Constance M.Rousseau and Joel T.Rosenthal (Kalamazoo: Medieval Institute Publications, 1998), 155-156.

[232] X 4.1.13; X 1.40.1.

[233] RPG VII.2451; VII.2465.

[234] Davis, *Fiction in the Archives*, 11.

[235] X 2.19.13: "Quum causam, quae inter venerabiles fratres nostros Colubriensem et Egitanensem episcopos super suarum limitatione dioecesum vertitur, vobis duximus committendam, discretioni vestrae mandamus, quatenus, quum ad principale in causa veneritis supra dicta, vos secundum divisiones, quae per libros antiquos vel alio modo melius probabuntur, nec non et testes, famam et quaecunque alia adminicula, Deum habentes prae oculis, in commisso vobis negotio procedatis."

behavior.[236] Thus, rumors had to be diffused by the declaration of ecclesiastical authorities; the higher the better.

Moreover, the description of coercion provided the local commissary with the guidance to ask for the confirmation of the petitioner's narrative. Similar to the above-mentioned papal decisions in *Liber Extra* and other collections of the papal decretals, the Penitentiary's decision was null and void if the words of a petitioner had not been confirmed.[237] The decisions, which were summarised concisely at the end of each case in the Registers, often included a specific condition in which the ruling would be valid: if the fear was strong enough (*qui cadere poterat in constantem*),[238] if there was no subsequent voluntary vow,[239] especially at the proper age,[240] if the victim always wore the novice *habitus* after the forced entering the monastery,[241] or if the person who had forced someone into marriage or monastery would confirm that.[242] It seems the latter was the most difficult to obtain.

The witnesses, in general, were the weakest point in canonical jurisprudence. Oral testimony was the main instrument of proof in *ordo judiciarius*,[243] but it was often challenging to present even one witness, let alone the required two or three, especially in

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[236] X 5.1.17; Brundage, *Medieval Canon Law*, 147-150.

[237] Glos. ord. ad X 4.17.11: "Et hic non negatur quin alia pars possit probare contrarium si voluerit. Unde si nihil probat, eo ipso quod parentes istius in facie ecclesiae contraxerunt, et approbante ecclesia simul fuerunt usque ad mortem, praesumitur legitimum matrimonium inter eos, quare filii legitimi sunt habendi, quousque contrarium ostendatur(...)Potest dici quod hic non constabat de matrimonio parentum istius viduae, nec erat communis opinio quod illi fuissent legitime coniuncti. Et ideo mulier debet probare narrationem suam."

[238] RPG VI.3776: "Si vocatis vocandis etiam Gerlaco prefato sibi constiterit, quod prefata Hilleken per talem vim et metum, que cadere poterant in constantem, matrim. cum dicto Gerlaco contraxerit ut prefertur et postquam ad etatem legit. pervenerit tacite vel expresse sponte in eum non consenserit et de aliis expositis, declaret ut petitur."

[239] RPG V.2172: "Si vocatis vocandis sibi constiterit quod exp. solum gestaverit habitum novitiorum patenter distinctum ab habitu professionis et quod alias tacite vel expresse professionem non emiserit et de aliis expositis, declaret ut petitur."

[240] RPG VI.3762: "Si vocatis vocandis constiterit, quod exp. postquam ad annos discretionis pervenerit non velle in dicta relig. remanere fuerit protestatus et de aliis expositis, declaret ut petitur."

[241] RPG VI.3574: "Si vocatis vocandis sibi constiterit, quod exp. solum habitum noviciorum gestavit, quod patenter ab habitu professorum distinctus existit et quod hasta predicta, quam portavit, non sit habitus professorum et de aliis expositis, declaret ut petitur."

[242] RPG V.2171: "Si vocatis vocandis Elizabetha prefata et aliis evocandis sibi legit. constisterit quod Michael exp. ante contractum cum dicta Margareta matrim. cum ipsa Elizabeth matrim. per verba de pres. non contraxerit nec sponsalia carn. copula subsecuta et de aliis expositis, declaret ut petitur."

[243] Brundage, *Medieval Canon Law*, 129-133.

marital cases. When the commissary had to ask the people who forced a person into marriage, or the local prior paid by parents to keep a child in the monastery, it was not guaranteed that they would confirm the coercion. It would work if the coercion case was fake, in which parents and the "victim" agreed to get rid of an undesired marital bond, as in the famous story of Charles, duke of Lorraine, in 1637, or Louis XII in 1498; in these cases, as John Noonan once said, the coercion was "an old ploy" for annulment the unwanted marriages among the nobles.[244] Even the formulation *vis et metus* did not always show reality but could be merely a family's best chance to get rid of the unpleasant contract.[245] But not all cases were like these, and not all coercers were willing to confirm what they did. Thus, the other reason why some stories are repetitive may be that people had to return to the Apostolic Penitentiary asking for the declaration one more time.[246]

The problem with witnesses—whether they confirmed the words of the coercee or not—creates another problem for the historians. The endings of the stories are always missing, except for the rare cases when additional documents can be found in the local archives.[247] Whether the witnesses confirmed the petitioner's words and the victims were freed or not is unknown. Kirsi Salonen and others proved that sometimes it is possible to find the missing puzzle piece, but not often.[248] If the document went missing, was destroyed, or simply got lost in the abyss of the ecclesiastical archives all across Europe, we are left with nothing but the short text in the registers of the Apostolic Penitentiary. These medieval heroes emerge from the darkness, part of their life story becomes visible—biased, formulated by a proctor, and reformulated and written down again by clerks of the Penitentiary—and disappear again. Historians are left with guesses and suspicions.

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[244] Noonan, "The Steady Man," 643.
[245] Wieben, "Unwilling Grooms in Fourteenth-century Lucca," 267.
[246] For instance, cases RPG VI.3624 and VI.3548; VII.2465 and VII.2522.
[247] Ostinelli, "Penitentiary Evidence and Local Archive Material," 7-16.
[248] Kirsi Salonen, "Diemunda and Heinrich—Married or Not? About a marriage litigation in the Consistorial Court of Freising in the Late Middle Ages," in *The Apostolic Penitentiary in Local Contexts*, eds. Gerhard Jaritz, Torstein Jørgensen and Kirsi Salonen (Budapest and New York: Central European University Press, 2007), 44-57.

3.4 Narrative Techniques

Everyone loves a good story and medieval people were no exception. They told them in taverns and during evening gatherings, transmitted through the folklore, and, as Davis stated, they were acutely aware that they could shape their crimes in their narratives, as they sought mercy from the authorities.[249] Similarly, the *narratio* that we have in the cases in the Registers before the *supplicatio* is never a mere account of the events, but a story with an exposition, rising action, climax, and resolution (the current state of the petitioner and his intentions).

An example for such a rhetoric arc is the petition of Johannes Rummel from Konstanz diocese, who was forced by his father to enter a Premonstratensian monastery sometime before 1480, the year of his supplication.[250] The victim disagreed with his fate and protested to the prior, saying that he intended to return to the world. It was not successful and the father forced him to take habit anyway. Seizing an opportunity, the boy escaped (the story's tension was rising) and ran away from his lands and his furious father. He did not wear the habit but served as a secular cleric. When his father fell ill he regretted what he did to exclude his son from inheritance. But some inidentified people (*nonnullis simplices*) said that Johannes should stay in the monastery and not inherit his father's estate, so the petitioner asked permission to live *in seculum* without obligations to the monastery and to inherit after his father.[251] The story

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[249] Davis, *Fiction in the Archives*, 2; 18-19.
[250] RPG VI.3706.
[251] RPG VI.3706: "Johannes Rummel acol. Constant. dioc.: [exponitur pro parte], quod ipse dudum contra eius voluntatem atque coactus per eius genitorem intravit mon. o.Prem. de Madelberch Constant. dioc., et quamvis ipse semper recusaret emitter professionem et desuper priorem avisavit, ne ipsum ad professionem reciperet, cum numquam fuerit intentionis sue esse relig., sed ad se culum revertere velle et habitum et relig. contra eius voluntatem ut premittitur assumptum relinquere et abicere, pater eius ipsum dictam professionem licet contra eius voluntatem emittere coegit; ac postmodum exp. captato tempore a dicto mon. aufugit, habitum dimisit et a dicto loco et patris presentia se absentavit et in longinquis se tenuit timens iram patris, et habitum et relig. abiecit ac ut cler. secularis ex post incessit prout incedit; ac deinde dum dictus pater eius in quadam egritudine postrema detentus et ante eius obitum confessus fuit se errasse in cogendo ipsum exp. ad mon. intrandi, habitum recipiendi et ut premittitur professionem emittendi et sic ipsum exp. quasi de hiis doleret male tractasse et hoc fecisse, ne exp. succederet in hereditate sua equis porcionibus cum aliis suis fratribusprout de iure debebat; a nonnullis tamen simplicibus asseri posset exp. mon. fore astrictum neque in hereditate dicti patris sui iam defuncti ab

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is colorful indeed: it reveals the intentions of the father, details about the victim's escape, the father's illness, and so on. The narrative was created to prove that the petitioner's entrance had been illegitimate and he should not stay in the monastery.

Among the marital coercion cases, Elizabeth Michaelis Finagher from the Krakow diocese told a similarly colourful story in 1491. Her mother (presumably a widow because she never mentions the father) decided to give her as a wife to a certain Johannes from the same diocese. Elizabeth protested in vain: the relatives and friends took her mother's side. Out of fear, the girl got married *in facie ecclesiae*, but the marriage was not happy. One day, when Johannes went to visit them, the mother told the girl to dress up because her husband was going to see her; desperate, Elizabeth went to the *camera* in the house and tried to hang herself with a towel. When her mother found her, she cut the towel with a sword and resuscitated her. Elizabeth asked the pope to dissolve the marriage because she was afraid *of futurum omnia mala sustinere* because of this marriage.[252]

Not all cases of coercion had such a long and colorful story: long narrative structures are more typical for cases of violence.[253] The petitioners used various narrative techniques to convince the jurists of the Penitentiary, primarily exaggerating their fear, emphasizing piety or good intentions, and using Canon Law formulas to corroborate their legislative status.

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intestato seu ex testamento succedere posse: petit decl. ipsum ad dictum mon. minime fore astrictum ac in mundo tamquam cler. secularis versare et in bonis parentum ut ceteri fratres licite succedere posse."

[252] RPG 7.2634: "Elizabeth Michaelis Finagher mul. Cracov. dioc. [exponit,] quod cum olim mater sua carn. cuperet ipsam exp. cuidam Johanni Mercatorts laic, Cracov. dioc. in matrim. tradere et ipsam eidem matrim. copulari, ex certis legit. causis ammum suum moveri recusasset et videns mater sua predicta, quod ad matrim. contrahendum inclinari non posset, quadam die quosdam consanguineos et amicos ipsius exp. accersivit et insimul vocavit, ut ipsam inducerent ut in dictum Johannem ut maritum consentiret; ipsa vero exp. reverentia et metu parentum et contra suam voluntatem in facie eccl. matrim. cum dicto Johanne contraxit (…); et dum quadam die prefatus Johannes ad domum accessisset visitandi causa, mater sua eidem dixit, ut se aliis pannis vestiret et ornaret, quoniam Johannes maritus suus veniret ad videndum ipsam; ipsa vero exp. egre ferens, cum in ipsum ut maritum numquam consenserat ne matrim. sic ut premittitur contractum verbo aut facto approbaret seu ratificaret, quandam cameram domus sue predicte tamquam desperata intravit et quodam manutergio se suspendit; et cum mater rediret sua predicta cameram eandem intravit et filiam suam suspensam repperit et confestim cum quodam gladio manutergium, quo suspensa erat, incidit et adhibitis confestim opportunis remediis cum non expirasset vires et sanitatem resumpsit (…)"

[253] Torstein Jørgensen, "Killings, Unfortunately, Take Place More Often Here. Civil and Clerical Homicide in Late Medieval Norway," in *Violence and the Medieval Clergy*, eds. Gerhard Jaritz and Ana Marinković (Budapest and New York: Central European University Press, 2010), 40.

Exaggerating fear was achieved by repeating words that express the involuntary and violent character of an action. It was not enough to say that entering the monastery or marriage was just *contra voluntatem*; the victims repeated it in different formulations many times during the narration and supplication. For instance, a certain Vitus Hertz from the Augsburg diocese (1487) described his marriage with Ursula as made by force and fear of death and no other, led unwillingly and against his will, neither considered valid nor had in mind to want her (as his wife): *vi et metu mortis et non alias ductus invitus et contra voluntatem (...) numquam ratum habuit nec habere velle in mente gessit*. After recounting that Ursula insisted on consummation, he said again that the marriage was forced, and repeated it once more in the supplication.[254] It was not the threat that was repeated through a series of tautology, but the descriptions of involuntary action ot fear felt by the victim.

Description of pious and good intentions was another popular technique both for the cases in the Penitentiary and "pardon tales" in civil courts: the petitioners had to present themselves in the best light, convincingly showing that they did not want anything evil, and only harsh circumstances or other's people involvement made them behave wrong.[255] In the Registers, a unique story of this type is that of Ludulphus de Binschringen from the Trier diocese: being an orphan and placed in a Benedictine monastery by his mother, he wanted to study from an early age but the abbot and monks did not let him. Seizing an opportunity, he left the monastery at seventeen and studied *artes liberales* and both civil and Canon Laws. His intentions were honorable: to nurture his love of science, to serve in the world. Ludulphus's style differed slightly from the usual *penitentia*, for instance, he included details about his love of science.[256] This might mean that he wrote the petition by himself as a trained

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[254] RPG VII.2532.
[255] See the example of such a story in Davis, *Fiction in the Archives*, 77-78.
[256] RPG VI.3624; VI.3548; VII.2618.

jurist, not seeking the help of proctors.[257] Intentions—for instance, to leave the monastery or not to consummate the marriage—were essential for the narrative. They foreshadowed the future deeds of the petitioners (such as escape from the monastery), proved that the action was forced, and emphasized the difference between the wills of the oppressor(s) and the victim. The most popular description of good intentions was the formula *cupiat pater/mater effici liberorum,* used in both monastic and marital cases to stress the petitioner's will to marry, annulling a forced monastic vow or an unwanted marriage.[258] It might be the influence of the Augustinian model of the three goods of marriage, where *proles* and procreation, in general, played an important role. [259] "Pious" intentions appear most visibly in cases when the petitioners had to deal with heretics: for instance, Nycolaus von der Gehtutner from the Prague diocese had the intention to become a cleric but needed to get rid of his heretical wife.[260]

Finally, the formulas of coercion and consent, taken from the precedents of *Liber Extra*, played an essential role in the narrative. Except for the aforementioned formulas of threat and force (*as qui cadere poterat in constantem*), the petitioners added details that clarified their legitimate position. For instance, the phrase *tacite vel expresse* was used to show that the petitioner remained a novice and never took the monastic vow.[261] The same phrase was used in the Penitentiary for the decisions where there was a need to additionally confirm that the petitioner had not taken the vow in any form.[262] As was mentioned before, in marital cases, the petitioners repeated the phrase *matrimonia debeant esse libera,* taken from

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[257] Still, it did not prevent the distortion of his name in the registers: in 1475, he was Ludulphus Einschringe (RPG VI.3548); in 1477, he happened to be Ludulphus de Binschringen (RPG VI.3624); finally, in 1490 (RPG VII.2618) he appeared as Ludolphus de Enschringen.

[258] For instance, RPG VIII.3328, VIII.3408.

[259] *De bono conjugali* 1,32: "Haec omnia bona sunt, propter quae nuptiae bonum sunt: proles, fides, sacramentum"; C.32.q.2.c.2: "Quod enim preter intentionem generandi fit, non est nuptiarum malum, sed est ueniale propter nuptiarum bonum, quod est tripertitum; fides uidelicet, proles, et sacramentum."

[260] RPG IV.1758.

[261] For instance, RPG V.2114; in *Liber Extra*, X 3.31.23: "Infra probationis annum libere quis redit ad saeculum, nisi professionem fecerit tacite vel expresse, vel appareat, eum vitam mutare voluisse."

[262] For instance, RPG V.1992; V.2031.

Gemma's case in *Liber Extra*.[263] However, constructing the narrative was not entirely the petitioner's choice but the proctors' who prepared the supplication and were paid for it. They used the formulas they knew; thus, many supplications look similar. For instance, the cases of the de Schowenberge sisters are almost identical with the difference that Margareta was five years old when she entered the monastery in Mulhusen (Basel diocese), and Clara was twice her age.[264]

The petitioners and their proctors used various techniques to construct their narratives and prove that the action was forced and did not reflect the real intentions of the victims. Kirsi Salonen showed that the constructed narrative could differ significantly from reality when the case is checked in local ecclesiastical archives. The case of Diemunda and Heinrich from Freising, who asked in the Penitentiary for the dispensation from consanguinity, turned out to be a story of a woman who used the ecclesiastical court to bind a man in marriage.[265] Salonen concludes that such a difference between the court case and the Penitentiary text shows that the petition was formed according to specific styles and formulas to obtain grace.[266] According to Milena Svec Goetschi, the constructed narrative did not present the exact truth to the Penitentiary; the petitioners did not lie, but they "embellished" the offense or "stretch" the truth to achieve what they wanted. That is why the favorable decision was valid only if the words of the petitioner would be confirmed.[267]

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[263] RPG VII.2451: "Ipsius exp. non appellata ut asseritur in rem transivit iudicatam pronuntiavit et declaravit, cum autem dicta exp. numquam cum prefato Alexandro alias quam ut premittitur matrim. per verba de pres. contraxerit ac matrimonia debeant esse libera cupiatque mater effici liberorum et cum dicto alio viro sibi alias nullo iure prohibito in matrim. per eam contracto remanere desiderat," X 4.1.29: "Quum itaque libera matrimonia esse debeant, et ideo talis stipulatio propter poenae interpositionem sit merito improbanda, mandamus, quatenus, si est ita, eundem B., ut ab extorsione praedictae poenae desistat, ecclesiastica censura compellas."

[264] RPG VIII.3380; VIII.3381.

[265] Salonen, "Diemunda and Heinrich," 44-57.

[266] Salonen, "Diemunda and Heinrich," 55.

[267] Goetschi, "Thief and Arsonist," 97-98.

Chapter IV. Cases of Coercion to Monasticism and Marriage

4.1 Numbers of Marital and Monastic Cases of Coercion in the Registers

Focusing now on the cases of marital and monastic coercion, let us start with the numbers. Between 1431 and 1503, from Pope Eugene IV to Alexander VI, the Registers of the Penitentiary include 107 cases of coercion to monastery and 82 cases of coercion to marriage.[268] Considering that some petitioners came to the Penitentiary more than once,[269] and some came in pairs,[270] these cases include 102 victims of forced monasticism and 80 victims of forced marriage.[271]

The cases are not spread proportionally in the Registers. Because the Penitentiary institution developed and changed through the fifteenth century, the first three volumes (from Pope Eugene IV to Pius II) have from 1 to 8 cases of forced marriage or monasticism. Starting from the fifth volume (Paul II, 1464 - 1471), the number of cases doubles, and most of the cases of coercion are to be found in the following volumes from 1471 to 1503, with a visible drop of numbers during the last Pope of the century, Alexander VI. These tendencies correlate with the general growing number of cases in the Penitentiary with the institution's development: for instance, during the papacy of Paul II, 4626 cases were registered in sum, while the first volume from Eugene IV's papacy had only 775 cases.[272]

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[268] RPG I-VIII.
[269] For instance, Ekarius de Roeperg from Mainz: RPG VII.2461; 2521.
[270] For instance, Anna Secclerin et Elizabeth Hueberin, the Augustine nuns from Hirstall, the Konstanz diocese: RPG VII.2150.
[271] There are cases when married couples claimed that both were forced into the union, for instance, RPG III.539; VI.3699; VII.2462; VII.2502.
[272] These were not all cases of the Penitentiary during these years: as it was mentioned before, the *Repertorium Poenitentiariae Germanicum,* according to Schmugge's plan, consists of the cases from the German-speaking areas only.

As to dioceses, the most considerable numbers of cases of coercion to marriage and monastery came from the dioceses of Konstanz and Mainz: 26 and 19, respectively. Other cases show the wide variety of dioceses and lands. For monastic cases, the four next dioceses in numbers are Utrecht (the Netherlands), Cologne (Germany), and Liège (Belgium) with 9, 7, and 7 cases, respectively; other dioceses usually bring from 1 to 5 cases. Also, five victims appealed from Poland (the Włocławek, Poznań, Gniezno, and Krakow dioceses). In forced marriage petitions, the variety is even more striking, with most dioceses bringing from one to five petitions. Six of them are from Poland, and five – from the Czech lands; the most northern petitioner applied from Vilnius, Lithuania.[273]

Most of the cases identified the petitioners (or victims in the story), adding their social status or ecclesiastical position. In 64 cases of forced monasticism (60%), women are victims, and only nine of them (in seven cases) identified themselves as nuns. On the contrary, male petitioners mainly presented themselves as clerics (in 36 cases out of 43), preserving the *ordines* they obtained before, even by force. Most of them asked to serve in the world and obtain benefices. In cases of forced marriage, the situation is different: most victims are men (57 petitions, 70%), and only 16 of them are clerics, mainly those who wanted to be promoted but were involved in the forced marriage because of fornication. The gender patterns would be analyzed further.

As to the age of the victims, it is mentioned mainly in monastic but not marital cases. In forced monasticism, 24 cases are about children placed in the convent under the age of seven. Still, most victims (61 cases, 57%) spoke about the age between seven and fourteen years, *pueritia*, which still prevented them from taking the monastic habit legitimately, so was more important to emphasize. Only five victims said about themselves being adults in the moment of coercion, possibly because it was much more difficult to prove the illegitimacy of

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[273] RPG VI.3722.

the vow with only coercion as argument, not the nonage. But the tendency to mention other errors is common for both marital and monastic cases: victims wanted to guarantee the favorable decision if the mentioning coercion would be not enough.[274]

In marital cases, age is hardly visible. There is no case with mention of the age before seven; in fourteen cases (17%), victims were in *pueritia*, and, again, only five victims claimed that they were already adults. However, 77% of victims did not clarify their age at all; we can only presume, because of mentioning the consummation and previous marriages, that most of them were far behind the legitimate age of twelve or fourteen (for the girls and boys, respectively).[275] The tendency seemed to be strange when we compare it with the widespread belief that the Middle Ages was the period of arranged and forced marriages of children: Richard Helmholz raised the same question in his research of marital litigation in England. He concludes that, perhaps, "almost all children ultimately agreed with their parents' choice."[276] Indeed, both in Helmholz' court cases and the Registers, most petitioners who fought with forced marriages were adults coerced to the unions in the *nubiles aetas*.

Finally, the quantitative analysis of monastic cases shows another interesting tendency: most of the children were forced to stay in Benedictine or Augustine monasteries (33 and 19 cases, 31% and 18% respectively), and nine children were left in Cistercian order. Other orders are far behind: for instance, only four girls ended up in the Poor Clares, and five children were given to Dominicans. This corresponds to a typical tendency of Medieval monasticism: "the new orders of the twelfth century generally declined to accept child oblates, and (…) the Benedictines continued to take them".[277] Using the Register cases, we can also conclude that older orders, such as Augustines, Benedictines, and Cistercians,

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[274] Makowski, *Apostate Nuns in the Later Middle Ages*, 64.
[275] X 4.2.11.
[276] Helmholz, *Marriage Litigation in Medieval England*, 98.
[277] Lawrence, *Medieval Monasticism: Forms of Religious Life*, 114.

remained the favorite place to leave a child. In contrast, more recent orders contained mostly willing recruits.

4.2 Coercion to Monastery in Registers of the Apostolic Penitentiary

In 1450, during the papacy of Nicolas V, a girl named Theodorica Villici Reyner came to the Apostolic Penitentiary from the Utrecht diocese.[278] She retold a story that almost sounds like a medieval German fairy tale: her mother had two daughters, but she loved one of them and did not love the other. She decided to force the unloved daughter, the unfortunate Theodorica, into the monastery and did so with cursing words, threatening, and beating. Twice, the daughter came home from the monastery, and twice her mother put her back before the girl escaped the third time. The girl asked the pope for a declaration to live in the world as a secular person and inherit her parents' goods. On October 23, the ultimate decision was made, stating that if Theodorica had not chosen to stay in the monastery by herself after she came of age at 12, she should be free from monastic life. Even though Theodorica's entry to the monastery was obviously against her will, she could not legally live in the world without the permission from the Apostolic Penitentiary. That was the rather general reason for the monastic cases of coercion in the Registers of the Apostolic Penitentiary.

Although medieval Canon Law sources proclaim the necessity of free will to enter the monastery, reality was often different.[279] As James Brundage points out, "Many monks, in truth, did enter the monastic life under compulsion, rather than out of idealistic aspirations for a life of asceticism and devotion."[280] Monks and nuns who did not want to stay in the convent and were forced to do so submitted petitions to the Apostolic Penitentiary, the only institution which was entitled to free them from the forced oath. Most of them were children, placed in

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[278] RPG II 737.
[279] X 3.31.1; 3.31.20.
[280] Brundage, *Medieval Canon Law*, 34.

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the convents by parents or the closest relatives.[281] The Registers showed the same tendency: 87 cases out of 107 (81%) included the description of age under fourteen (the legitimate age for taking *habitus*), only four petitioners (0,04% of cases) mentioned that they had been in *aetas legitima* to take the vow, each in particular circumstances. Elizabeth Ridereyn was among them: she was eighteen years old when she voluntarily entered the convent Mary of Steinach (Chur diocese, Switzerland) for probation, but the girl disliked the strict rules of life and wanted to return to the world.[282] Local nuns forced her to take the veil, threatening her with perpetual incarceration, which, in fact, violated the Rule of Saint Benedict.[283] Elizabeth escaped and applied to the Apostolic Penitentiary.[284]

Forcing children into convents violated two main rules of the entry to *vita religiosa—voluntas* and *aetas idoneus*—because the main principle of Canon Law was that nobody can lose their rights without guilt, cases of monastic coercion were the restoration of the right of an individual to enter the monastery freely.[285] In other cases, age is not specified, so the oppressors violated only the right of voluntary entering the convent. Similarly to marital cases, most often their closest relatives forced the victims into the life they did not want. In

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[281] Salonen and Schmugge, *A Sip from the "Well of Grace,"* 55.

[282] RPG VII.2525; leaving the monastery because of too strict after-reform rules was not an uncommon thing, see Ludwig Schmugge, "Towards Medieval Consciousness. The Activities of the Papal Penitentiary," in Troels Dahlerup and Per Ingesman, eds. *New Approaches to the History of Late Medieval and Early Modern Europe: Selected Proceedings of Two International Conferences at The Royal Danish Academy of Sciences and Letters in Copenhagen in 1997 and 1999* (Det Kongelige Danske Videnskabernes Selskab, 2009), 216.

[283] *The Rule of Saint Benedict*, 58: "If he promises stability and perseverance, then at the end of two months let this Rule be read through to him, and let him be addressed thus: "Here is the law under which you wish to fight. If you can observe it, enter; if you cannot, you are free to depart."

[284] RPG VII.2525: "Elizabeth Ridereyn mul. Cur. dioc. exponit, quod ipsa olim in 18. sue et. anno vel circa constituta ut conversa mon. o.s.Aug. sub cura et regimine o.pred. degentium monial. mon. b. Marie in Steynach Cur. dioc. animo probandi intravit, et cum per 6 menses vel circa extitisset in eodem in presentia priorisse et quarundam monialium in loco capitulari eiusdem mon. tunc existentium quod ulterius probare ac tot quibus subibat boribus dietim submitti neque monial. effici et professionem emittere nollet palam dixit et quod amplius tot laboribus non subiceretur sibi promisit, sin autem quod ipsam carceres perp. immitti facerent comminata fuit; ac etiam dicta exp. sic ac per tales vim et metum, qui cadere poterant in constantem compulsa animo tamen, ut propterea monial. non efficeretur, professionem tunc emisit, quam postmodum ratam non habens neque gratam prefate priorisse nuntiavit, que eam propterea carceres eiusdem mon. intromisit; illos tamen postquam per 20 dies vel circa in eis extitit fregit et dicturn mon. illicentiata exivit et ad seculum rediit (…)"

[285] Wilfried Hartmann and Kenneth Pennington, *The History of Courts and Procedure in Medieval Canon Law: History of Medieval Canon Law* (Washington, DC: The Catholic University of America Press, 2016), 24-25.

ninety-two cases (86%), the victims were placed into monasteries by relatives or one or both of their parents.

Although most of the cases in the Apostolic Penitentiary did not record the explanation why the parents decided to put their offspring in religious institutions, the Registers shows a few possible reasons to do so: inheritance issues,[286] unwanted marriage,[287] poverty or being orphaned,[288] the child's disability[289] and the pious oath of parents.[290] First of all, as James Brundage notes, noble families placed their offspring in convents to cut them out of inheritance—as it possibly happened in Theodorica's case.[291] One of these unfortunates was Magdalena Payrerin from Konstanz diocese (1438); at seven years old, she was forced to enter an Augustinian monastery by her biological father, who wanted to give her inheritance to her brother, a male heir.[292] She publicly protested until her father returned to the monastery and harshly beat her up, threatening to lock her up in prison. The father told he would kill her if she decided to leave the convent; finally, protesting once more in front of nuns of the convent, Magdalena became a nun but left the monastery because she wished to be a mother and have children.[293] She asked the pope to annul her vow, and the pope did so.[294] It is not mentioned in the case, but her legal rights to inheritance were restored with the papal declaration, and she could appeal to the ecclesiastical or papal court if anybody tried to impede her again.[295] But not only nobles were mentioned as victims of disinheritance in the RPG.[296] For instance, Katherina Truchsessin de Pumersfelden (Bamberg diocese, 1477) was

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[286] For instance, RPG I 1; VI.3612; VII.2582.
[287] For instance, RPG V 1949; IV 1839.
[288] For instance, RPG V 2001; V 2009; VII.2507.
[289] RPG III 130.
[290] For instance, RPG IV 1219; VI.3720.
[291] Brundage, *Medieval Canon Law*, 34.
[292] RPG I 1.
[293] It is the common argument that proved that the person had no intentions to stay in a monastery; for instance, in RPG V 2140: "Ipsa in animo et voluntate in dictis mon. et ord. velle remanere umquam gessit, sed mater effici cupiebat liberorum."
[294] The decision was valid if she had said the truth.
[295] For a similar case, see X 4.17.14.
[296] Apostolic Penitentiary scribes were obliged to indicate every petitioner's social status and place it right after the name in the records: Salonen and Schmugge, *A Sip from the "Well of Grace,"* 89.

placed in a monastery by relatives who wanted to inherit her dead father's goods,[297] and other victims asked for the rights to inherit their parents' money in their supplication, which means that entering the monastery would have caused at problem.[298]

However, inheritance laws differed from country to country, so the monastic vow did not necessarily prevent children from inheriting. On the one hand, people who entered the monastery took the vow of poverty, as stipulated in Saint Benedict's rules, automatically declared that they would be free from all possessions.[299] Abandoning all worldly belongings was an essential step towards the "symbolic death" of the monks.[300] The canonists heavily criticized nobles who took the vow and held on to all their goods.[301] On the other hand, for example, Johanna Stephani, a nun under forced vow, had obtained a special license from her abbess to go to her parents' house and take possession of the goods after her father's death.[302] This indicates that in specific circumstances, monks and nuns could inherit, presumably, in favor of the monastery.

Sometimes, parents deposited with the prior or abbot a certain amount of goods with the children to ensure their entrance. It happened with Yda Gisberti from Cologne, who was forced to enter a convent of the Poor Clares by her father and stepmother. The reason was her clandestine marriage with Gofred Uzonis. Her parents made a deal with the monastery's superiors, so she was locked up regardless of her protests. Still, Yda managed to escape and

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[297] RPG VI.3612: "Katherina Truchsessin de Pumersfelden mul. Bamberg. dioc.; [exponitur pro parte], quod olim quidam eius consanguineus, qui ut creditur in bonis paternis patre ipsius exp. defuncto succedere posset, exp. tunc in 7. sue et. anno constitutam ut mon. o.s.Aug. sub cura et regimine o.pred. degentium sororum in Furawnauzach (…)"

[298] RPG VI.3706; VII.2582; VIII.3380.

[299] *The Rule of Saint Benedict*, 59: "As regards their property, they shall promise in the same petition under oath that they will never of themselves, or through an intermediary, or in any way whatever, give him anything or provide him with the opportunity of owning anything."

[300] Goetschi, "Thief and Arsonist: The Adventurous Fate of a Runaway Monk," 96.

[301] Glos. ord. ad X 4.6.7 pr.v. ut in domo proprio: "Ergo non erat monacha (...) cum talis conditio sit contra substantiam monachatus (...) Quidam tamen dicunt quod ea adiecta tenet monachatus, et pro non adiecta haberi debet arg. huius littera. De hoc dixi supra, de cond. appos., si conditiones; verba ista in domo propria, cum omni sua substantia, sic expone, id est, cum usufructu suae substantiae olim ante monachatum, ut de usufructu illarum rerum victum et vestitum haberet in vita sua, quicquid enim superest, debet esse et est monasterii."

[302] RPG V 2070: "(…)ipsum exeundi usque ad obitum patris sui prefati permansit; quo mortuo de lic. superioris ad domum ipsius, ut possessionem bonorum suorum habere posset, accessit.(…)"

annul her vow with the help of the Penitentiary.[303] The donations were an important part of

placing the child into a convent, even if it is rarely mentioned in the Registers; it happened

even when the future monk went there willingly.[304] For instance, an acolyte Johannes de

Bibrach (1481) voluntarily took his brother's place, who was promised for God by their

mother, and his relatives supported him with clothes and all he needed.[305] Johannes's case

shows another significant tendency: the connection between children in the monastery and

their relatives could be maintained. The ongoing financial relationships between the parents

and monastic authorities made forced monasticism profitable for the convents, even though

this violated the most fundamental laws of recruiting new monks. But it also meant that the

communication between parents and monastic communities did not stop when they placed

their children within monastic walls, so the victims could protest in person to their oppressors

or ask their parents to take them back. Many victims said that they spoke with both monks

and relatives about their wish to return to the world.[306] For example, the de Schowenberge

sisters, daughters of nobleman Renhard, said that they asked their father many times to take

them back, even in written form.[307]

Clandestine marriage was not a common reason to send a person to a monastery, but it

also happened. A story almost identical to Yda Gisberti's is told of Agnes Brindrich of

Konstanz diocese (1464), except she was forced to stay in the monastery both before and after

the clandestine marriage.[308] The marriage violated the vow of chastity in the rules of both

Saint Benedict and Saint Augustine, so it was essential to prove either that the marital oath

came before the monastic vow or that the monastic vow was null and void. Although the girl

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[303] RPG V.1949.

[304] *The Rule of Saint Benedict*, 59: "Or else, if they are unwilling to do this, and if they want to offer something as an alms to the monastery for their advantage, let them donate the property they wish to give to the monastery, reserving the income to themselves if they wish."

[305] RPG VI.3720: "Johannes de Bibrach acol. Ratisbon. dioc. (…) credens et in 13. anno sue et adhuc constitutus mon. predictum ingressus extitit et in eo per 4 annos vel circa cum habitu cler. secularis permansit, in illo mon. victum tantum habuit, vestimenta vero et alia sibi necessaria de bonis parentum suorum fuit ministratum (…)"

[306] For instance, RPG VI.3567.

[307] RPG VIII.3380; VIII.3381.

[308] RPG IV 1839.

married his husband willingly, consummated the union freely and entered the monastery against her will, the *poenitentiarius* considered the order of the vows rather than the coercion by itself.[309] It might have happened because coercion was more challenging to prove, and its position was not yet stable in Canon Law. The order of vows (the earlier is valid, the next is null) was the easiest way to solve the case in ecclesiastical courts for centuries.[310]

Poverty was another reason to leave children in the monastery, mostly when the child was half-orphaned, as in the case of Johannes Heis from the Meissen diocese (1466). His mother could not feed the fatherless child, so she left him in a Cistercian monastery at the age of eleven. However, it was temporary: when Johannes visited his parents and stayed too long, the abbot refused to accept him again, so the boy lived *in seculum* and got married.[311] His namesake, Johannes de Furbach (Mainz diocese, 1466), was also placed in a monastery at the age of six by his poor father; and he again returned to the world and got married. Sometimes, it was not poverty that forced the children out of their family. Anna Parvisatoris from the Basil diocese (1455) did not have poor parents (at least it was not mentioned), but she was unwanted because of disability: when she was younger, a pig mauled her hand. The bad condition of the monastery where she was forced to beg (maybe, because of her disability) was her reason to leave the convent and marry. In all three cases, the place to dispose of extra children in the family was the monastery, which accepted the poor and orphans according to the Church's mission to take care of *personae miserabiles*.[312] In this case, coercion can be both a strategy of survival for the child (and the family) and the violation of free will, which made the reality of the forced monasticism even more complicated.

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[309] Ibid.: "Si sibi constiterit quod exp. matrim. ut prefertur contraxerit et carn. copula consumaverit ante oblationem sue intrusionem et professionem predictas et de aliis assertis, declaret ut petitur."

[310] For instance, the order of the vows was important in marital cases because the first legitimate vow prevailed over all subsequent ones according to the legislation of Innocent III and Gregorius IX; see more in Theodor Mackin, *Marital Sacrament* (New York: Paulist Press, 1989), 292-93.

[311] RPG V 2009.

[312] Goldberg, "Legal Persona of the Child in Gratian's Decretum," 21.

The final reason mentioned, parental devotional oaths, is a complicated issue because the Registers do not explain many such cases. Generally, promises to enter a religious house, made in harsh circumstances, often appear in the Penitentiary: once the fear was gone or the problem was solved, people did not want to fulfill the oath and asked the pope to release them. As Ludwig Schmugge once said, history would have gone a different way if Martin Luther used this possibility: he became a monk also after an oath made in a thunderstorm.[313] Sometimes, the parents made these oaths not for themselves but the children. For instance, a certain Nicolaus de Wart's mother did so to save her son from a terrible illness. He must not have liked the monastery because he soon escaped and was returned until his next escape and petition to the Penitentiary in 1478.[314] The situation with such oaths was complicated because children did not always want to fulfill the promise, and parents had to choose between asking the pope to absolve them from the oath or force their children into a monastery.[315]

After analyzing reasons for coercion, the forms of forcing into the monastery should be considered. The monastic cases do not differ from the general pattern of how the scribes of the Penitentiary described coercion. They used here the same formulas of force and fear (*vi et metu*),[316] persuasion (*ad instantiam, ad suggestionem*),[317] the violation of free will (*invitus, contra voluntatem*),[318] and a classical canonic formula of the intense fear which can move a

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[313] Schmugge, "Towards Medieval Consciousness," 225-226.

[314] RPG VI.3654: "Nicolaus de Wart presb. de Sancto vito Leod. dioc.; [exponitur pro parte], quod cum ipse olim in 12. sue et. anno vel circa existeret et quadatn gravi infirmitate opprimeretur, ut ab eadem liberari posset mater exp. vovit ipsum ad mon. o.s.Aug. in Ebertzcluse Trever. dioc. portare et donare prout etiam ipsum portavit et donavit et exp. absque sua voluntate in habitu seculari aliquod temporis professione per eum non facta permansit et aliquando mon. predictum exivit, sed illum contra eius voluntatem reduxerunt; et quia exp. vidit propter infirmitatem et corp. sui debilitatem in dicto mon. remanere non posse, capta opportunitate mon. iterum exivit et ad seculum est reversus (…)"

[315] The example of parents who were absolved from the oath by the Pope is RPG IV.1219, but with the order to encourage the girl to fulfill parental promise: "Dionisius Makart et Elizabet ux. coniug. Leode dioc. voverunt, quod si prol. haberent, illam religione gredi facerent, qui postmodum unam filiam genuerunt, que nullo pacto relig. ingredi vult: de absol. a voto, ut idem in al. pietatis opera commutetur (f.d.s., semper teneantur eam hortari ad observ. promissionis eorum)"

[316] RPG V 2070.

[317] RPG IV 1748, and RPG II 550, respectively.

[318] RPG IV 1839, and RPG V1992; 2152, respectively.

constant man (*metum qui cadere poterat in constans virum*),[319] the most distinct description even found in Canon Law sources. [320] Still, the monastic cases had three important commonalities that distinguished them partlyfrom other cases of coercion. First, cloistered people were involved in pressure. Secondly, the monastic space played an essential role. Thirdly, forcing to wear specific clothes and pronouncing the words of vow completed the action and showed the oppressors that the victims did not have a way back.

First of all, even though most cases described the parents' coercion, abbots, abbesses, monks, and nuns were often part of the deal too. The parents could make an oral contract with them, confirmed by a certain amount of money, for instance, ten florins in the case of thirteen-year-old Conrad Hons (Liège diocese, 1463). [321] Relatives could also have long-lasting relationships with the convent, as in the case of Ursula Schenkin de Erpach, who applied to the Penitentiary three times, in 1472 and twice in 1475.[322] Her relative Bernard de Eberstein forced her to enter the Benedictine convent, in which he was *advocatus et protector*; the abbess and the nuns made her take the veil.[323] In fear of her life, she became a nun and was transmitted to another monastery, from which she escaped and got married. In 1475, she would return to the Penitentiary with her husband.[324]

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[319] RPG IV1833.

[320] This type of fear, being proved, annulled any kind of vow or action in Canon Law, especially marriage, and was valid both for men and women: X 4.1.28.

[321] RPG IV 1826: "Et cum, Pater Sancte, idem exponens premissa metu parentum, qui pro receptione ipsius ducentos florenos Renenses abbati eiusdern monasterii persolverant, fecerit quodque numquam intrandi religionem intentionis fuerit."

[322] RPG VI.3475; VI.3552; VI.3558; in general, additional applications could mean that the information checked after the first one was incorrect - Salonen, "The Supplications from the Province of Uppsala," 49; Schmugge, *Marriage on Trial*, 18-23.

[323] RPG VI.3475: "Ursula Schenkin de Erpach mul. Magunt. dioc. [exponit], quod ipsa olim in iuvenili etate sua constituta quendam Bernardum de Eberstein laic. ipsius exp. consanguineum contra eius voluntatem vi et metu, qui cadere poterant in constantem, coacta fuit intrare mon. monial. o.s.Ben. in. Vrowenalpen dioc. prout intravit et huiusmodi vi et metu per eundem iusmodi Bernardum, qui advocatus et protector dicti mon. fuerat, et abba. et moniales dicti mon. ante finem anni probationis compulsa professionem emittere per sorores monial. ibi solitam fieri ipsa renitente emisit, animo et intentione quamprimum posset dictum mon. exiret prout et una vice exivit protestans non velle redire amplius ad illud (…);" Makowski, *Apostate Nuns in the Later Middle Ages*, 56.

[324] RPG VI.3552.

Sometimes, children would be given to monasteries in which their relatives were monks, nuns, or priors.[325] The other possibility was that monastic authorities forced the children to stay when the primary intention of parents was to educate their offsprings in the monastic schools. Apparently, not all monks who remained in the monastery after finishing the school did so because of coercion: it was the atmosphere in which they grew up, their "first and most decisive contacts with the cloister."[326] But the Registers show that not all who wanted to return to the world after completing their education could do so, and it happened because abbots and monks insisted on taking vows. In the story of Dorothea de Phirt (1489), the situation was even more dramatic: first led to monastery *ut ibi erudiretur et bonis moribus imbueretur*, she ended up forced by abbess, nuns, and parents to take the veil under the threat of perpetual incarceration in this convent.[327] Even if the victims escaped, wearing the habit as monastic students and being seen in it prior to their flight made people consider them monks or nuns, and the mere supposition could prevent them from marrying or inheriting.[328] As Makowski said, the oppression by monastic authorities in such cases could have the financial reasons: they did not want to return the money left by parents or the dowry which already belonged to community coffer.[329]

For the parents, who wanted to leave a child in the monastery, cooperation with local monastic authorities was also inevitable. First, the beforementioned regulations of monastic life implied that novices could go back *ad seculum* when they no longer wanted to stay within the monastic walls. So, in order to force a child to stay, the monks had to sin against the rules. Secondly, if children were forced to the monastery before the age of fourteen, they had to be forced to take the vow once more, once they crossed the line of *annum discretionis*. So, the pressure of monks was needed at least twice; the oppressors may have been the novice

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[325] RPG VII.2471; VIII.2617; VIII.3426.
[326] Lawrence, *Medieval Monasticism: Forms of Religious Life*, 114.
[327] RPG VII.2595.
[328] For instance, RPG VII.2455; VII.2582.
[329] Makowski, *Apostate Nuns in the Later Middle Ages*, 50.

masters, who took care of novices from the time of entering the monastery until the day of their vow, and they led them to the vow.[330] The Registers include many cases of such "double-coercion": for instance, the case of the above mentioned Ursula Schenkin.[331] Thus, the coercion could have been not a single act, but a long-standing threat, exerting pressure, and dismissing the victim's protest. Six petitioners describe this as *vis et metus durantes*.[332] The role of local monastic authorities was complicated in cases of coercion because, as mentioned above, monks and priors could be the possible *testes* in the case. For instance, in the case of Elizabeth de Wilsberg (1487, the Strassburg diocese), the decision was that the nuns of the monastery had to prove that the threat had been strong enough to "move a stable woman."[333] But it is impossible to say if they cooperated or denied this in front of the commissary in the end, since the Registers never contain this part of the cases.

When the child was not only put in a monastery but was also forced to become a monk or a nun, the process of the vow is a relevant question. Besides the legitimate long process of preparing novices for the vow by the *magister noviciorum*,[334] the other two necessary steps were changing into special garments (*habitus*) and pronouncing the vow of chastity, poverty, and obedience.[335] Oppressors, from inside or outside the monastery, had to force a victim to do both.

Clothes were essential to distinguish secular and non-secular people. Almost every case of forced monasticism in the Registers has the phrase *habitum suscepit* or *habitum dimissis*, which subsequently means the entrance (mostly coerced) to the monastery and

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[330] Mirko Bretenstein, "The Novice Master in the Cistercian Order," in *Generations in the Cloister - Youth and Age in Medieval Religious Life*, eds. Sabine von Heusinger and Annette Kehnel (Berlin: Lit Verlag, 2008),148.
[331] RPG VI.3475; VI.3552; VI.3558.
[332] RPG V.2193; VI.3546; VI.3557; VI.3614; VI.3806; VIII.3423.
[333] RPG 2527: "Si vocatis monialibus dicti mon. et aliis, qui fuerint evocandi, quod metu parentum qui cadere poterat in constantem mul. professionem emiserit et quamprimum potuit exivit et de aliis premissis, declaret ut petitur."
[334] See more in Bretenstein, "The Novice Master in the Cistercian Order," 145-154.
[335] Tomasz Maria Dąbek, "Znaczenie mniszych ślubów stałości i przemiany obyczajów oraz ich biblijne uzasadnienie" [The Meaning of the Monastic Vows of Constancy and Change of Morals and Their Biblical Justification], *Ruch Biblijny i Liturgiczny* 69, no. 1 (2016): 6; Salonen and Schmugge, *A Sip from the "Well of Grace,"*137.

escape. But, as mentioned before, classical Canon Law distinguished people in the monastery as those who could leave (*novicii*) and those who could not (*professi*). Their clothes were also different.[336] The monastic tradition of *habitus* was not uniform which can be seen in the Registers. Some victims mentioned the different types of tailoring of the clothes for the two groups,[337] additional elements added only to monks *habitus*,[338] or just remarked that there was a significant difference.[339] Some monasteries did not require special garments for novices, and they wore the same clothes as monks. *Liber Extra* permitted it, but in this case, the monk's habit had to be blessed.[340] Whatever type of garment a monastery used, the *habitus* put on while pronouncing the vow made the coercee a proper monk or a nun. From the day children stepped behind the monastic walls, the ultimate goal was to keep them inside until this point.

Still, the distinction between the two types of clothes gave the coercees a chance to protest and keep their quasi-secular identities. If the parents or relatives left a child in the monastery without forcing them into a vow, the victim stayed in the novice's *habitus* as long as he or she could. In many cases, the petitioners note that they intentionally did not change their clothes from *novitiorum* to *professionis* to show that they did not wish to be a monk or nun. For instance, this was the strategy of Cristianus Sunere from the Konstanz diocese (1478), who ended up in a Benedictine monastery by the coercion of his parents. He wore novice's clothes for a couple of years until the day he could escape.[341] A certain Michael de

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[336] X 3.31.9.

[337] RPG VI.3548: "Ludulphus Einschringe cler. Trever. dioc. art. mag. et legum doct. [exponit], quod cum ipse olim in 12. sue et. anno vel circa constitutus patre suo carn. iam ante viam verse carnis ingresso a matre carn. et nonnullis suis cognatis in mon. o.s.Ben. s. Willibrordi in Epternaco Trever. dioc. oblatus extitisset ibique stando in noviciorum habitu, qui ab habitu professorum scissura seu forma patenter distinctus est."

[338] RPG VI.3574: "(…) ad studium Heydelbergen. destinatus extitit et in illo quandam hastam dicti habitus absque cutala sive floro aut aliis ad habitum professorum o.s.Ben. pertinentibus per annum portavit."

[339] RPG VIII.3268: "Henricus Wechsler cler. Constant. dioc. exponit quod ipse olim suasionibus et minis patris sui mon. o.s.Ben. Sancti Blasii in Niar va Constant. dioc. extitit et in eo, in quo distinctio habitus professorum et noviciorum existis habitum noviciorum per annum et ultra, citra tamen bienmum gestavit animo non in eo profitendi."

[340] X 3.31.23.

[341] RPG VI.3637: "Cristianus Sunere subdiac. Constant. dioc. olim antequam 14. sue et. annum complevisset per vim et meturn parentum suorum, qui eum relig. effici cupiebant, contra eius propriam voluntatem quoddam mon. o.s.Ben. Constant. dioc. ingressus est et habitum noviciorum invitus assumpsit, quem per aliquos annos etiam postquam dice tum annum compleverat et usque ad diem exitus ab eodem mon. detulit (…)"

Heydersdorff from the Mainz diocese (1466) did the same: he took the novice's habit to obey his father who ordered him to enter the monastery but never changed his clothes afterwards.[342] *Habitus novitiorum* was a marker of the liminal reality of a person who obeyed coercion but protested against the monastic vow at the same time. Resolutions also often mention the clothes as potential evidence that the person had told the truth. If they kept wearing the *habitus novitiorum*, there was no monastic vow, and the person could be set free.[343] Consequently, if the monastery used the same type of clothes for everyone, victims emphasized that: in 1481, Cristina de Deyfen from the same order as Cristianus and Michael added to her petition that at her place *habitus professarum et noviciarum indistinctus existit*.[344] In these cases, the pronounced vow became the only distinction between lay student, novice, and monk.

Taking the vow, besides entering the convent or wearing the habit, complicated the victim's situation. If the coercees finally gave up and pronounced the vow in order to have it nullified, the petition to the Penitentiary had to argue that the vow was unsound for some reason. There were three types of errors used in the Registers' cases: vows made involuntarily, wrong age, and partial vow. In theory, *vis et metus*, especially *qui cadere poterat in constantem*, rendered the vow null and void, because Canon Law required the vow to be voluntary.[345] But, as it was mentioned beforehand, coercion was difficult to prove, especially when the witnesses were biased. So, the victims could add other issues, for example, that the vow was taken before the year of probation ended (*ante annum probationis*

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[342] RPG V 2012: "Michael de Heydersdorff acol. Magunt. dioc. exponit, quod cum ipse in 13. sue et. anno vel circa existeret, in quodam mon. o.s.Ben. Selgenstaden. de mandato patris sui mandatus fuit, in quo dictus pater suus eum fecit assumere habitum novitiorum, quem quia voluit obedire patri suo assumpsit et de iussu patris contra ipsius voluntatem per superiorem dicti mon. detentus ultra annum probationis in eodem permansit; nullam tamen professionem emisit, sed habitum novitiorum semper portavit animo et intentione cum opportunitatem haberet dictum mon. exire velle."

[343] RPG IV 2172: "Si vocatis vocans dis sibi constiterit quod exp. solum gestaverit habitum novitiorum pas tenter distinctum ab habitu professionis et quod alias tacite vel exa presse professionem non emiserit et de aliis expositis, declaret ut petitur."

[344] RPG VI.3741; similar cases are RPG VII.2582.

[345] X 3.31.1.

completam),[346] or before the proper age of fourteen (*ante annum discretionis*).[347] According to Canon Law, this vow was invalid.[348] In rare cases, victims who were aware that the monastic vow had three parts (obedience, poverty, and chastity) took only one or two of them, usually excluding a vow of celibacy. This was the choice of Henricus de Fridberg (1490), who stopped by the monastery of his relative on his way to his school and stayed there as a secular presbyter for some time, but the relative persuaded him to take the vow; Henricus took only the partial one.[349] Similarly, a four-year-old Margareta Schenkin de Sumer (1493), of noble birth, was placed under the custody of the abbess and vowed only obedience to the abbess.[350] Margareta went back into the world when the latter died and married *credens sibi id licere* because her vow was not a proper monastic one. She is known to have returned to the Penitentiary twice with the same case, so there was some problem proving that she was not a nun.[351] In most cases, however, the coercees took the both the vow and the habit, and the only choice left was to escape outside the monastic walls.

Space was also an essential part of both coercion and protests against force. The monastery was a sacred and delimited space with exact borders, different rules of existence, and people separated from society.[352] The monk who stays within the monastic walls proves his stability (*stabilitas loci*), which has been considered the primary virtue for a monk from Saint Benedict's *regula* onwards.[353] Crossing the monastery's boundaries, not as a pilgrim but as a potential monk, was a serious step, and only the pope could dispense anyone from it. The

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[346] RPG VI.3567.
[347] RPG VI.3470.
[348] X 3.31.8: "Si tibi constiterit, quod praefatus T. ante consummationem XIV. anni susceptum habitum deposuerit, aut si post XIV. annum habitum ipsum sine probatione susceperit, et infra triduum deposuerit, eum ab impetitione praedictorum eremitarum vel aliorum in hac parte, occasione et appellatione cessante denuncies penitus absolutum, et eam, quam, postquam exivit, iuravit accipere in uxorem, libere posse traducere, si alia causa rationabilis non obsistat."
[349] RPG VII.2611.
[350] RPG VIII.3266.
[351] RPG VIII.3322; VIII.3411.
[352] Michel Lauwers, " Constructing Monastic Space in the Early and Central Medieval West (Fifth to Twelfth Century)" in *The Cambridge History of Medieval Monasticism in the Latin World,* eds. Alison Beach I., and Isabelle Cochelin (Cambridge: Cambridge University Press, 2020), 317-319.
[353] Dąbek, "Znaczenie mniszych ślubów stałości," 5-22.

monastic space was part of a monk's or a nun's identity, and they were strictly prohibited to leave the space without their superiors' permission.[354] Thus, the monastic cases often note the petitioners' opponents, who considered them monks or nuns because they stayed in the monastery for some time.[355] For example, Margarith de Kekenbecke from Cologne diocese (1463) came to the convent of Saint Mauricius to study and was later considered a nun, even though she had never taken the vow.[356]

However, as Elizabeth Makowski said, "for those compelled to enter, the monastery became a prison."[357] In most cases, parents or relatives left children in the monasteries, where they were guarded and kept till the age of taking the monastic habit. Many petitioners mentioned that they could not escape immediately: the monastic space was indeed a closed and restricted area, hard to leave. Moreover, coercion not only took place by moving a person inside the monastery: there was a restricted space inside the convent too, similar to a prison, mentioned in many cases.[358] Thus, the most aggressive protestors were locked up in this *clausura*, under *custodia*, to ensure that they would not escape, and the threat of perpetual incarceration if a victim refused to take the veil, as in the aforementioned story of Elizabeth Ridereyn, was quite effective.[359]

Consequently, leaving the space of the monastery was a means of protest. Many victims mentioned that they had escaped and been returned, even a couple of times. For instance, Cristina Hermanni Henrici (Liège diocese, 1475), placed in the monastery by force by her "friends," escaped as soon as the threat ended. She was returned by force, and only a second escape was successful, probably because she got married.[360] Beatrix de Hove (Münster diocese, 1449) escaped two or three times, returning to the parents' house, which was always

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[354] X 3.31.5; 3.31.7; Goetschi, "Thief and Arsonist: The Adventurous Fate of a Runaway Monk," 96.
[355] RPG IV.1756; 1748; 1826; 1833; Salonen, and Schmugge, *A Sip from the "Well of Grace,"* 49.
[356] RPG IV.1821.
[357] Makowski, *Apostate Nuns in the Later Middle Ages,* 45.
[358] RPG V.1949: "prout exp. habita libertate exeundi et revolandi ad virum suum dixit, ut exire vellet, et deinde per magnam custodiam in clausura dicti mon. detenta fuit."
[359] RPG VII.2525.
[360] RPG VI.3557.

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a mistake because they returned her every time.[361] Jacomina de Buclant (Utrecht diocese, 1482) managed to escape when she was nine and eleven years old until the "disobedient" child was placed in custody.[362] The record-holder was Johannes Papen from the Brandenburg diocese (1496), who left the monastic walls five times.[363] Unsuccessful returns to the world might have been connected to the fact that the victims did not have anywhere to go because their parents or close relatives were the oppressors who had placed them into the religious houses in the first place; the aforementioned Johannes Rummel understood it, intentionally running *a dicto loco et patris*.[364] Only three cases mentioned that runaway nuns found protection at some relatives' place who were presumably not involved in the oppression.[365] Even if the relatives did not return them, it was the abbot's and prior's responsibility to catch the runaways. The monks who escaped also fell immediately under the excommunication.[366]

The time chosen for the escape was also critical. If a forced monk or nun stayed in a convent for too long, it became much harder to prove the coercion, but the opportunity to escape was also challenging to find. Many petitioners said that they had wished to escape already at the time when they took the forced vow, but waited long until they could seize an opportunity (*captare oportunitate*).[367] The most visible pattern is that the oppressor's death

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[361] RPG VIII.3444.

[362] RPG VI.3772.

[363] RPG VIII.3361.

[364] RPG VI.3706.

[365] RPG VIII.3375; VIII.3380; VIII.3381; the latter two cases tell the story of two sisters with almost identical narrative, so there is a high probability that the same relatives covered them both after the escape. The Registers never mentioned the possibility for runaway nuns to escape with one of the men visiting the monastery, but it was also possible: see more in Makowski, *Apostate Nuns in the Later Middle Ages*, 77.

[366] X 3.31.24: "Qui si in monasteriis suis recipi possunt secundum ordinem regularem, abbates seu priores eorum monitione praevia per censuram ecclesiasticam compellantur ad receptionem ipsorum, salva ordinis disciplina. Quod si hoc regularis ordo non patitur, auctoritate nostra provideant, ut apud eadem monasteria in locis competentibus, si absque gravi scandalo fieri poterit, alioquin in aliis religiosis domibus eiusdem ordinis ad agendam ibi poenitentiam talibus vitae necessaria ministrentur. Si vero huiusmodi fugitivos vel eiectos inobedientes invenerint, eos excommunicent, et tamdiu faciant ab ecclesiarum praelatis excommunicatos publice nunciari, donec ad mandatum ipsorum humiliter revertantur."

[367] For instance, RPG VI.3634: "Katerina Truchsessin de Putnersfelft den mul. Bamberg. dioc.; [exponia tur pro parte], quod olim quidam eius proximus consanguineus, qui ut in bonis paternis patre ipsius exp. defuncto succedere posset, eidem exp. tunc in 7. sue et. anno vel circa constitute, ut quoddam mon. monial. o.s.Aug. sub cura et regie mine o.pred. degentium in Frowenourach, quod penitus refore matum existit, ingredi suasit et duxit, prout tunc exp. mon. non tamen animo Ibid. profitendi nec perp. remanendi, immo quamprimum commoditas se

(generally a member of the family) released the victim. For instance, Agnes de Owe (1488) felt fear and coercion as long as her father lived because it was him who had placed her into the convent in Nigra Silva (Konstanz diocese); but with *vis et metus cessantes* after his death, she escaped.[368] Victims even mentioned that the idea to wait for an oppressor's death came to them during taking the habit.[369] But with the coercer's death, the return *ad seculum* was risky because victims found themselves "between two worlds": people considered or wanted them to be cloistered, even though the coercees believed that their secular lifestyle was legitimate (*credens se non professam*).[370] Until victims proved that they were not monks, they fell under the strict rule of excommunication for all runaways (*monachi vagantes*).[371] Thus, victims came to the Apostolic Penitentiary, *ad sed. ap. pro remedio*: to stop the pursuit and to leave behind the monastic space peacefully.[372]

The analysis of the cases of coercion into *vita religiosa* would be incomplete and biased without mentioning the victims who submitted to their fate and agreed to stay in the monastery. Although they did not require typical declarations for secular life from the Penitentiary, like other victims, sometimes they appear in cases about transitioning monks or nuns from one monastery to another. The level of coercion is never precise in such cases because the petitioners did not need to describe it in detail. For instance, a noblewoman

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offerret abinde exeundi, ingressa extitit habitumque noviciarum suscepit et gestavit in eodem (…);" see more in Makowski, *Apostate Nuns in the Later Middle Ages*, 53.

[368] RPG VII.2560: "Statim mortuo suo genitore et vi et metu cessans tibus non valens aerem in dicto mon. vigentem et complexioni seu sanitati sue contrarium et asperam [regulam] dicti mon. et ord. sups portare et in dictis mon. et ord. cum sui animi quiete et sana cons scientia ulterius remanere capta opportunitate cum prirnum coms mode potuit ab mon. et ord. aufugit et illicentiata recessit (…)"

[369] RPG VI.3806: "Helisabet Bumenney mul. Spiren. dioc.; [exponitur pro parte], quod ipsa olim seducta a parentibus suis per vim et metum mon. o.pred. s. Lamberti intravit, in quo per plures annos stetit ac eisdem vi et metu durantibus professionem in eo licet contra eius voluntatem emisit, et quamprimum pater suus ab hoc seculo migravit et metus huiusmodi cessavit mon. ipsum exivit, ut bona sibi pro parte sua legit. spectantia et pertinentia a fratribus et sororibus suis repeteret et in seculo remanere posset(…)"; RPG VI.3466: "Alheydis Wynandi mul. Traiect. dioc.; [exponitur pro parte eius], quod cum ipsa olim in iuvenili etate constituta existeret, per matrem suam diversis persuasionibus et minis inducta quandam domum op. in Dotinckhem Traiect. dioc., in qua quedam mulieres congregate begine nuncupate certum modum habent vivendi sub o.tert.fr.min., intravit ac habitum inibi solitum portandum assumpsit et cum eisdem mulieribus per quos annos permansit animo et tentione, si mater eius moriretur vel quamprimum oportunitatem haberet, eandem domum exiret (…);" Makowski, *Apostate Nuns in the Later Middle Ages*, 60.

[370] RPG VII.2471.

[371] Jaritz, "Monasterium ipsum (sine licentia) exivit," 85-93.

[372] RPG VI.3784.

Katherina de Windeck, whose case appeared in the Registers in 1487, confessed that she entered the monastery in Wuntal *per vim et metu parentum* but escaped to another convent in Basel diocese, where she wanted to stay.[373] The nuns Anna Secclerin, Elizabeth Hueberin (both Augustines), Agnes Holtzappfelin de Hergestheim, and Johanna de Esch (both Benedictines) said that they had entered their convents at a young age, persuaded or ordered to do so by parents; here, the term *metus reverentialis* appeared.[374] All of them asked to enter other monasteries because of reform and problems inside their convents.[375] Sometimes the story got more complicated, as was the case of Anna de Flachsland (1497).[376] She was placed in the monastery by her relative, a Dominican nun, but took the veil without protesting, presumably, as a novice because she was underage at the time. Because of reforms, she and many other nuns moved to another monastery in Gegwiler, where new nuns forced her to take the veil, presumably, a monastic one this time. But she did not like her new home, went into the world, and was excommunicated on account of *apostasia*.[377] Anna agreed that she was forced by nuns *per vim et metum,* but did not ask for permission to return to the world and marry like dozens of her fellow sufferers. She wanted to come back to the first convent or any other because the regulations in Gegwiler were too strict for her.[378]

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[373] RPG VII.1859.

[374] RPG VII.2150; VII.2280.

[375] The problem with runaway monks in the time of the reform, both as its reason and consequence, is well seen in the Registers from the third volume (1455-1458), see Schmugge, "Female Petitioners in the Papal Penitentiary," 685-703; Schmugge, "Towards Medieval Consciousness," 214-218; Jaritz, "Monasterium ipsum (sine licentia) exivit," 86-91.

[376] RPG VIII.2617.

[377] From times of Boniface VIII (1294-1303), leaving the monastery (*apostasia a religione*) resulted in automatic excommunication, and the absolution was *casus reservati* to the pope. Schmugge, "Female Petitioners in the Papal Penitentiary," 685-703; Goetschi, "Thief and Arsonist: The Adventurous Fate of a Runaway Monk," 96.

[378] RPG VIII.2617: "Anna de Flachsland soror o.s.Aug. de observ. mon. Porta Angelica nuncupati Gegwiler Basil. dioc. exponit, quod cum ipsa olim in 4, sue et. anno constituta esset, cuidam consanguinee sue monial. mon. o.pred. in Clingental Basil. dioc., ut secum in dicto mon. intraret, tradita fuit animo et intentione, ut postmodum habitum assumeret et professionem emitteret, et in eo per aliquos annos permansit; verum cum predicatores dictum mon. reformare statuerint, exp. una cum pluribus aliis mon, exierunt, et exp., que nondum erat in et. legit. constitua ta, [ne] daretur occasio vagandi posita fuit in dicto mon. Gegwiler; in quo cum ad 13. sue et. annum pervenisset, moniales dicti mon. ut professionem emitteret instantiam fecerunt, quod facere exp. diutius recusavit, tandem verbis et verberibus coegerunt professionem emittere, quam per Villa et metum. emisit sernper habens anirno, si umquam daretur occasio, dictum mon. exeundi prout postmodum cum primum potuit illicentiata exivit et ad seculum est reversa propter quod apostasie reatum ac excom. sent. incurrit; cum autem ad redditum dicti mon. animum suum nullatenus inclinare possit et in dicto mon. Gegwiler nullum consensum

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The peculiarity of such cases lies not only in the decision of petitioners to stay in *vita religiosa* but also in the fact that all of them called themselves *moniales* or *nobiles moniales*, depending on their status. At the same time, most other victims were called *mulieres, nobiles mulieres*, or *uxores* in the Penitentiary. Even if petitioners' stories were similar—they were placed in a monastery, something happened, and they ended up outside—their intention to stay in the world or monastery affected their identities written in the Registers. Similarly, petitioners called themselves clerics, presbyters, subdeacons, acolytes, and so on, if they wanted to continue an ecclesiastical career outside the monastic walls. There are many cases when men asked permission to serve *in seculum*, be promoted, and obtain ecclesiastical benefices.[379] Among stories of monastic coercion, 36 victims out of 43 male petitioners identified themselves as various types of clergy, and 21 of them said that they had intentions to follow an ecclesiastical career or serve in the world. Women did not have this possibility: moreover, they even could not be "mendicant" nuns since Pope Boniface VIII ordered all religious women to be enclosed in nunneries.[380]

In sum, the monastic cases of coercion in the Apostolic Penitentiary mostly concerned children placed in monasteries underaged and against their free will by their parents or closest relatives, often with the help of local monastic authorities. Scribes rarely included the reasons for the parents' actions in the *narratio*, but some of the records suggest inheritance issues, unwanted marriage, parents' oaths, poverty, or disability of the children. Many victims mentioned the death of their father or parents before they were forced to enter the convent, so they lost protection. But stepping behind the monastic walls did not end all connections with the oppressors: donations or controlling the monastic vow after the child came to age led to ongoing communication and new opportunities for the children to protest. Besides words of

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libere, sed per vim et metum et iuvenili et. constituta professionem ut prefertur emiserit nec speret austeritates illius regule propter sui corp. debilitatem sufferre posse, cupiatque ad dictum primum mon. in Clingental vel quod aliud se transferre: supplicatur de absol. et de disp. se transferendi."
[379] For instance, RPG IV.1831; IV.1833; VI.3720; VII.2523; VII.2611.
[380] Salonen and Schmugge, *A Sip from the "Well of Grace,"* 32.

protest, victims could refuse to take the final vows, wear only novice's habit, or escape, even if they needed to wait for the oppressor's death before they did.

These cases are essential for the general understanding of coercion in medieval Europe because they show that the situation was often controversial and could not be considered only as religious devotion or manifestation of power. For instance, there was a thin line between the desire to be pious parents or saving a child's life and the getting rid of an unwanted heir or another mouth to feed. At the same time, the cases illustrate that the theoretical Canon Law did not protect people from coercion: even if they escaped illegitimate vows, they were persecuted, forbidden to marry, or excommunicated. The visual aspects of the monastic vow (clothes or monastic walls) meant more than legal or theological concepts of free will and consent. Once placed in the monastery, people were considered monks or nuns for their whole lives, and only the pope's decisions released them from the unwanted vow. However, even though the theoretical law about free will did not work every time, it is notable that the children still had a chance to protest legally, using other excuses such being underaged or having a clandestine marriage. The ultimate point of the protest was the petition submitted to the Apostolic Penitentiary to annul the forced vows and to obtain freedom to live secular lives, should their petitions be approved.

4.3 Coercion to Marriage in Registers of the Apostolic Penitentiary

> *"When I was but a girl I fled the world,*
> *and in her habit clothing me, I promised*
> *that I would keep within her order's path.*
> *Thereafter men more used to ill than good,*
> *out of that pleasant cloister dragged me forth,*
> *and God knows what my life was after that."*
> Dante, Paradiso, III.103-108

In the first circle of *Paradiso*, Dante placed the souls who could not keep their vow. Both women he met there, Piccarda Donati and Constance of Sicily, were forced to marry after taking the veil. While it was not their fault, Beatrice explained to Dante that they had the

possibility to return to the convent (in fact, nullifying the forced marriage) but did not do it, so they were left only at the first level of eternal happiness.[381] However, the cases of coercion into marriage in the Registers of the Apostolic Penitentiary show a different picture. In truth, if the petitioners who claimed forced marriage in the fifteenth century lived in Dante's world most of them would not go to the first circle of Heaven but the second circle of Hell as fornicators. Georgius Holtzapfel would probably be one of them.[382]

Georgius came to the Penitentiary from the Augsburg diocese in 1493 (the decision was issued on March 31). He was not married but had a concubine, Anna, from the same diocese. He kept their relationships under wraps and had not intended to marry her, so the woman decided to take over. Anna negotiated with three or four men—Georgius oddly did not remember the exact number—and they met him when he was alone in a grove. After some threatening words, Georgius decided that marriage was his only option because he would not be able to withstand the strength of these men (*potentie dictorum virorum resistere non valens*). He married Anna—obviously, upon fear *qui cadere poterat in constantem—*but did not believe in the validity of this marriage and always said that he wanted to marry another woman. He asked the Penitentiary to let him fulfill the desire to marry with the legitimate offsprings in the future and was granted to do it.[383]

Georgius' story may be odd but corresponds to familiar patterns. First, he was not a child: a vast number of cases of coercion into marriage, unlike monastic cases, were either

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[381] Dante, Paradiso, V.1-84.

[382] RPG VIII.3272.

[383] RPG VIII.3272: "Georgius Holtzapfel laic. August. dioc. [exponit,] quod postquam ipse olim quandam Annam mul. August. dioc. pluries actu fornicario carn. cognoverat illamque ad tempus in concubinam tamquam secretam tenuerat, prefata mul. cum piens, quod ipse Georgius cum ea matrim. contraheret, quosdam tres vel quatuor viros sibi adiunxit et ad ipsum Georgium cum ipsis accessit, qui ipso exp. in nemore solo reperto illum ut cum ipsa mul. matrim. contraheret instanter requisierunt eumque ad hoc per verba minatoria compulerunt; unde exp. potentie dictorum virorum resistere non valens matrim. cum ipsa mul. per vim et metum, que cadere poterant in constantem, contraxit; cum autem exp. cessante metu sic contractum matrim. gratum neque ratum habuerit, immo illud semper reclamavit cupiatque cum alia mul. matrim. contrahere, a nonnullis tamen simplicibus asseritur ipsum prefate mul. vinculo matrim. astrictum esse, ad ora igitur talium obstruenda: supplicatur pro parte exp. de decl. ipsum nullo vinculo matrim. prefate mul. astrictum esse, sed cum aliqua alia mul. matrim. contrahere posse cum git. prol. suscipiende."

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filed by people not mentioning their age or in the adult age like Georgius. Secondly, Georgius was a man: many cases involve men being forced to marry, unlike the well-known medieval phenomena of women being forced into unwanted unions (as seen in Dante's poem above). Thirdly, the coercer is a woman here, but she hired men to help her; in many cases, male relatives or friends played this role; although, parents could be oppressors as well. Next, consummation was essential in the narrative: even if Georgius did not mention consummation, many couples indeed refused to have sex after the forced marriage despite the fact that they had a sexual relationship before. In addition, Georgius' case reveals one of the reasons for coercion: one of the parties' wish to legitimize the sexual relationship. Finally, it shows that although his behavior was not up to Canon Law standards, Georgius wisely chose the Penitentiary as an instrument to get out of the coerced union, and succeeded.

These patterns can be explored in more detail. As noted above, Georgius was not a child, similar to 83% of other petitioners (68 cases) who were forced into marriage either as adults or at an undisclosed age. Only seven cases provided the exact age of the victims, and not all of them were children according to Canon Law regulations, specifying 12 for girls and 14 for boys as the minimum age for marital consent.[384] Similar to monastic cases, the descriptors of age include *impuber*, *juventus* or *puellaris/puerilis/minorennis aetas*, and there are nine cases using such terms. Based on age specifications and/or age descriptors, altogether fourteen cases can be certifiably considered as minors forced into marriage. They represent the type of arranged marriages which were common both in medieval Europe and in the Registers of the Apostolic Penitentiary for many other places: for instance, Kirsi Salonen analysed the same case of Ludovicus Atier and Anna Martini from the French cases.[385] However, as age could play a significant role in abolishing a vow, as in cases where the exact

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[384] X 4.2.11.
[385] Salonen, "Marriage Petitions to the Apostolic Penitentiary," 554.

age was given (13 and 8 for one couple and 7 and 9 for another),[386] it is highly probable that the other petitioners (age unspecified) were not children when the coercion took place.

As for the identity of the victims, most of them were called *laicus* or *mulier*, and only ten were clerics. Despite the fact that Ludmilla de Melicini is known to have made a monastic vow after her coerced marriage and had no intentions to get out of the monastic veil she was still called *mulier nobilis*, not a nun.[387] In particular cases, petitioners were called *virgo*, *mercator*, *relicta* (widow in this context), or *magister in artibus*, and in all cases, the identity specified was necessary for the narrative.[388] In eight cases, women came to the Penitentiary with their husbands, either with new ones or those who represented the other party of the forced marriage. But the gender correlation is striking: 53 cases (65%) described men being forced into marriage, 23 cases were about women, and four are about couples.

As for the coercers, 41 cases included parents or the closest relatives forcing one or both parties into matrimony. Fathers acting on their own were mentioned in seven cases,[389] while mothers,[390] acting on their own or with other relatives, appeared in five cases.[391] Among other relatives, the brothers (mainly of women) were mentioned the most. Also, the marital stories of coercion have the type of oppressor, which was never seen in monastic cases: in eight cases the secular authority, mostly local governors, forced their subjects to marry. Other coercers include one criminal in 1476 that had the strange, urgent need to marry a local girl.[392] Also, prospective brides or grooms could be oppressors, either acting on their own, or using the help of relatives or ecclesiastical courts. For instance, altogether fourteen women are reported to have forced men to marry them either by themselves or with relatives, excluding

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[386] RPG III.1849; VII.2502.
[387] RPG VI.3789.
[388] RPG VIII.3402; VI.3731; VIII.3400; VII.2606.
[389] RPG III.329; VI.3699; VII.2462; VII.2466; VII.2561; VIII.2734; VIII.3364.
[390] Usually, a mother contracting the marriage for their children meant she was a widow: such a contract is mentioned in Duby, *The Knight, the Lady and the Priest*, 96.
[391] RPG I.604; VII.2609; VII.2634; VIII.96; VIII.1046.
[392] RPG VI.3592.

cases when the woman's *consanguineous* or *amices* were coercers, but the woman's will was not mentioned.[393]

There are many possible reasons to force someone to marry. The Registers contain at least six different reasons including sexual relationships revealed, pregnancy, money, challenging conditions, and fraud. As noted previously, extramarital sexual relationships were the leading precedent of stating that marriages should be free and without coercion in *Liber Extra*.[394] It was a reason for many forced marriages in the Late Middle Ages as well. In the Registers, the story of a man sleeping with the neighbor (from *Liber Extra*) had a couple of "sequels," one of which happened in Rome with Jeronima Cristofori de Missaka and Gaspar Teutonicus (1480).[395] In the best tradition of soap operas, they had a long-standing sexual relationship until Jeronima's father, Cristofor, found them in his own house. Furious, Cristofor threatened to kill both of them if they did not marry. Jeronima and Gaspar made the vow but never slept together again, so she decided to go to the Penitentiary because she wanted to be a mother and could not stay in this marriage.[396]

The father's intentions were clear: he wanted to cover up the *infamia* of his daughter and, probably, of the whole house. Women who lived in concubinage and became pregnant also had no other choice, for example, in the case of Margaret from Nuremberg, a widow, who became pregnant from an adolescent boy. She wanted to cover up the case and avoid scandal, but she picked a bizarre tactic: she forced an impotent local man to marry her by

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[393] For instance, in RPG VIII.3430.
[394] X 4.1.15.
[395] RPG VI.3699: "Jeronima Cristofori de Missaka mul. habitatrix Urbis Rome exponit, quod postquam olim se a quodam Gaspare Theotonico etiam habitatore Urbis Rome pluries cognosci permiserat, accidit ut quadam die Cristoforus de Missaka, pater exp., predictum Gasparem cum exp. in sua domo repperit, propter quod Cristoforus iracundia et furore motus dixit et iuravit, quod si exp. et Gaspar matrim. ter se non contraherent, ipsos et lico interficeret (...); quod videntes exp. et Gaspar propter vim et metum, que cadere poterant in constantem, huiusmodi vi et metu durantibus matrim. per verba de pres. contraxerunt carn. copula inter eos minime post contractum matrim. subsecuta; postmodum vero vi et metu huiusmodi cessantibus exp. cum prefato Gaspare et Gaspar cum prefata exp. ad consumationem matrim. procedere recusarunt et recusant de pres. (...) supplicat de decl. ipsam premissorum occasione eidem Gasparo minime obligatam esse sed matrim. contrahere posse cum aliquo viro cum legit. prol."
[396] Schmugge, *Marriage on Trial*, 128-130; similar case about infamia (RPG 1.207) was analyzed in Schmugge, *Marriage on Trial*, 124-127.

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promising him that they will live without having sex as a brother and a sister. Bartolomeus (it was his name) was shocked when she suddenly gave birth, so he wanted to dissolve the marriage, but Margaret brought an action against him in court. Bartolomeus went to the Apostolic Penitentiary and asked for a permission to stay unmarried in 1487.[397]

Covering up *infamia* is typical for adults; however, similarly to monastic cases, there are not many explanations why parents forced their small children into marriage. People just mentioned being wed at a young age and that it caused troubles for their voluntary matrimony. Rarely, as in the story of the Lithuanian girl Agnes Nicolai Hasakorvitz, the reason mentioned is the girl's dowry.[398] Her parents died when she was young, and she was under her uncle's guardianship who seemed not to care much about his niece. He presented her to Nicolas—a man she had never seen before—in a priest's presence, and the priest asked if she liked him.[399] Terrified, she agreed but never thought or spoke about the marriage. The priest's behavior seems strange among the prescriptions of the papal decretals, where the words of marital vow were clearly stated.[400] Was he trying to protect the girl from the forced

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[397] RPG VII.2539: "Bartholomeus Bucheler laic. de Czwickavia Nuemburg. dioc.; exponitur, quod cum olim post quondam Gasparis Rose op. Diosaw dum viveret Margarete mariti obitum, quidam adolescens eandem Margaretam viduam pluries actu fornicario secrete carn. cognovisset et impregnasset, ipsa vidua Margareta sentiens se ita impregnatam ne ea de causa aliquid diffamie sentiret volens verecundiam suam cooperire et scandala evitare, sua industria incitavit et induxit eundem Bartholomeum, ut eam caperet in ux. et matrim. cum ea contraheret; cum dictus Bartholomeus id evitare renitaretur asserens se impotentem prout erat et est de presenti ad consumandum matrim. et virgam suam virilem fere aridam et inutilem esse, tunc hoc n.o. dicta Margareta eundem Bartholomeum ad matrim. contrahendum induxit et ferventius incitabat tacens pregnantern eus false asserens, si ipse Bartholomeus eam caperet in ux. eum vellet in maritum et cum eo in matrim. castitatem servare et caste vivere cum ipso tamquam fratre. victus tandem dictus Bartholomeus pers suasionibus ipsius Margarete ignorans aliquid suspicationis eam pregnatam esse credens eam castam matrim. per verba de pres cum eadem Margareta publ. ram nonnullis fidedignis personis contraxit carn. copula inter eos minime subsecuta, et antequam matrim. in facie eccl. sollempnizaretur, ipsa Margareta peperit; unde dictus Bartholomeus videns se confusum et illusum eandem Margaretam in facie eccl. superducere et eam recipere in coniugem recusavit et recusat de presenti, super quo dicta Margareta eum coram offic. cur. eccl. Misnen. traxit in causam, que adhuc pendet indecisa; (...) supplicat ipsum exp. divortiari et declarari ipsum premissorum occasione dicte Margarete nullo vinculo matrim. astrictum esse, sed premissis n.o. a dicta Margareta separari et in seculo remanere solutum posse ut in forma."
[398] RPG VI.3722.
[399] Bringing the priest could be a part of coerced union but not all priest agreed to cooperate – see a similar case in Butler, "I Will Never Consent to Be Wedded with You!," 262.
[400] X 4.1.31: "Si inter virum et mulierem legitimus consensus interveniat de praesenti ita, quod unus alterum mutuo consensu, verbis consuetis expresso, recipiat, utroque dicenti: "ego te in meam accipio," et: "ego te accipio in meum," vel alia verba consensum exprimentia de praesenti, sive sit iuramentum interpositum sive non: non licet alteri ad alia vota transire. Quod si fecerit, secundum matrimonium de facto contractum, etiamsi sit carnalis copula subsecuta, separari debet, et primum in sua firmitate manere. Verum si inter ipsos accessit

marriage? Was he asking the wrong question to influence the girl's answer because the uncle told him to do so? Did he lack the proper education and did not know the correct words? We will never know. What is known is that the arranged "wedding" took place. Nicolas did not care about the canonical validity of his marriage: Agnes claimed that he cared more about her dowry than about her as a wife. No ceremonies, no consummation took place, the man disappeared immediately, and after three years and a half, when Agnes became older, she married a nobleman Laurentius. All formalities were held here, except for solemnization, because the information about the previous "marriage" impeded, so she applied to the Apostolic Penitentiary. The declaration that allowed her to marry if her words would be confirmed was issued on the April 12, 1481.[401]

Other cases about parental choice are not so clear. Parents could dissolve the children's marriages to place them in a monastery or broke their monastic vows and forced them to marry, and we do not know why. The latter happened not only with Dante's Piccarda and Constance but also with a Herman Osterhunsen (Münster diocese, 1491), who made a vow voluntarily at the age of 14, so, at the legitimate age.[402] But his parents and "friends" forced him to marry a woman called Balba, using the formula in the present tense, which meant a marriage vow already, not a betrothal. Herman asked for a permission to return to the

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tantummodo promissio de futuro, utroque dicente alteri: "ego te recipiam in meam," et: "ego te in meum," sive verba similia, si alius mulierem illam per verba de praesenti desponsaverit, etiamsi inter ipsam et primum iuramentum intervenerit, sicut diximus, de futuro: huiusmodi desponsationis intuitu secundum matrimonium non poterit separari, sed eis est de violatione fidei poenitentia iniungenda."

[401] RPG VI.3722: "Agnes Nicolai Hasakorvitz mul. Wilnen. dioc.; [exponitur pro parte], quod cum ipsa olim in iuvenili etate orbata parentibus suis orphana sub certi sui patrui potestate esset, ipsa certo die per suum patruum per manum recepta et Nicolao Dergevitz laic. ad latus dicte Agnetis locato ac presb. vocato, idem patruus ab ipsa et Nicolao dictum presb. inquirere iussit, an ipsi sibi invicem placerent; Agnes adhuc sub patrui sui potestate existens per eum coacta et timorosa et facti huiusmodi penitus agnita seu inscia sibi dictum Nicolaum placere respondit, Nicolaus vero similiter per presb. an dicta Agnes sibi placeret inquisitus etiam dictam Agnetem sibi placere respondit, quominus Nicolaus ut verius creditur plus sollicitus fuerat ad habendum bona Agnetis quam ipsam Agnetem in ux., quominus ipse tandem nec bannis neque aliquibus cerimoniis et nec carn. copula subsecuta statim ab ipsa Agnete recessit; deinde cum Agnes post tres annos et medium postquam predicta facta fuere ad maiorem cognitionem devenisset, cum quodam nob. viro Laurentio de Wangrow laic. Luceorien. dioc. matrim. per verba de pres. bannis solitis et cerimoniis adhibitis arrisque hincinde datis contraxit; (...) supplicatur de decl exp. dicto Nicolao vinculo matrim. per verbum >placet< minime astrictum seu obligatum esse, sed in matrim. cum dicto Laurentio remas nere posse cum legit. prol."

[402] RPG VII.2306.

monastery at a much older age, seeking absolution from the *transgressio voti*. His wife promised perpetual chastity; so in this case, he could enter the monastery even though he had never promised it in the first place.[403] Herman's petition may have mentioned the coercion to ensure that his petition would be accepted to enforce the validity of his claims. Herman did not explain why his parents broke his vow, but Martin Jacobi, in another case, did: he was from the Prague diocese, which in the fifteenth century meant the inevitable co-existence with the Hussites, who did not think well about clerics and priests.[404] His parents and relatives convinced him to marry instead, and he did so. But Martin soon deserted his wife and leaving the turbulence and violence, presumably connected to the Hussite war, he went to live with another woman. He was forced to return to his wife but heard she died, so he applied to the Penitentiary to fulfill the first vow to become a monk.

The methods of coercion to marry are also various. With some people, mere convincing or a few threatening words would work; with others, beating or luring into a trap were used. In the following part, I will describe how the coercers went beyond intimidating phrases, including fraud, ecclesiastical litigation, physical violence, imprisonment, and forced cohabitation. Interestingly, cases of the Registers did not show financial pressure as a method to force a child into the coerced marriage, which was popular in medieval Europe.[405] The explanation is that this type of threat would not be seen enough: despite Gemma's case and local ecclesiastical courts' decisions in favor of disinherited victims of coercion,[406] some canonists, such as Thomas of Chobham, still believed that financial pressure would not nullify the union.[407]

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[403] For one of the spouses entering a monastery, see Reid, "So It Will Be Found That the Right of Women in Many Cases is of Diminished Condition," 499-509.

[404] I.202.

[405] McShoffrey, "I Will Never Have None Ayenst My Faders Will!", 169.

[406] X 4.1.29; Noonan, "Power to Choose," 433-434.

[407] Butler, "I Will Never Consent to Be Wedded with You!," 251.

The cases of fraud are always the most colorful ones. In most cases, a male petitioner describes how a woman trapped him using friends, relatives, ecclesiastical courts, force, violence, alcohol, or other means. As will be shown, in all cases, the coercers had clear intentions to marry the victims and used the invitation to the house, uncovered extramarital sex, or enlisted ambiguous consent as a means of coercion. Without relating all the cases, some of the most vivid ones will suffice.

One Johannes Kemer (Liège diocese, 1491) was caught naked in his bed, where he peacefully slept and moved into the bed of Helvigia Styls by some unknown men. They wanted to create a scandal, make him marry and have his money; after the forced vow, he immediately escaped to other lands.[408] Georgius Corat (Salzeburg diocese, 1470) was invited to the house of Cristina de Comaco (a widow) but suddenly captured by her relatives there and forced to marry her with the help of an armored (!) priest.[409] A certain Agnes Sundlerin asked Macharius Sollower (Konstanz diocese, 1498) if he wanted to sleep with her for four florins, which she proposed to pay. Her relatives, who "suddenly" found them together, forced him to marry Agnes under the threat of death.[410] But it was not only women who trapped their future spouse: Mauritius Verner proposed to a virgin, Anna Paleman (Leslau diocese, 1499), to have sex near the river but never came to her and used her agreement as a marital consent in the ecclesiastical court, calling on fake witnesses.[411]

Sometimes people agreed to marry under the influence of alcohol and denied it as soon as they sobered, but the coercers used the pronounced consent to pursue the case. This happened to Johannes de Salvanio (Chur diocese, 1497), who was for a long time harangued by a presbyter to marry his daughter and refused many times—maybe, because she was an

[408] RPG V.2186.
[409] RPG V.2128.
[410] RPG VIII.3384.
[411] RPG VIII.3402.

illegitimate child of a cleric or because he himself had intentions to become a priest.[412] Finally, the presbyter invited him into the house and prepared dinner and a lot of alcohol, and the intoxicated Johannes agreed to marry. He broke his promise as soon as he came to his senses and asked the Penitentiary for permission to become promoted into the sacral orders. The presbyter did not take him to court, but in a similar case, the mother of a girl did so: when the woman from Mainz convinced drunk Philippus Gruitter to vow at a public feast that he would marry her daughter, she had plenty of witnesses to confirm it.[413] But during the litigation, the girl married another man whom she might also have been forced to marry by her mother.

Scholars such as Beatrice Gottlieb, Kirsi Salonen, Andrew Finch, and especially Sara McDougall describe how women brought to court the men they wanted to marry, using uncautiously uttered words, clandestine marriages, rumors, fake witnesses, and so on.[414] While these cases mostly come from the thirteenth and fourteenth centuries, the Registers confirm that this tendency did not change in the fifteenth century, and people continued to use ecclesiastical courts for coercion. For instance, a certain Peter Philippi from Dorn near Speyer (1464) went through similar trials: his first wife, Magdalena, was a bigamist in terms of Canon Law, that is a person who had a living spouse but married a second time. She was found and taken away by the legitimate husband, and Peter married one more time.[415] After

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[412] RPG VIII.3364.

[413] RPG VII.2609; see more in Schmugge, *Marriage on Trial,* 120-122.

[414] Beatrice Gottlieb, "The Meaning of Clandestine Marriages," in *Family and sexuality in French history*, eds. Robert R. Wheaton and Tamara Hareven (Philadelphia: University of Pennsylvania Press, 1980), 50-72; Salonen, "Diemunda and Heinrich - Married or Not?", 44-57; Sara McDougall, *Bigamy and Christian Identity in Late Medieval Champagne*, (Philadelphia: University of Pennsylvania Press, 2012), 71-94.

[415] RPG V.1988: "Petrus Philippi laic. de villa Dorn Spiren. dioc. exponit, quod ipse olim cum quadam Magdaiena Czymerman matrim. per verba de pres. contraxit, non tamen in facie ecel. iilud sollempnizavit, sed carn. copula consumavit; postmodum infra duos menses vel circa supervenit quidam Ulricus Czymerman et prefatam Magdalenam a prefato Petro petiit et dixit eam suam esse legit. ux., que et hec confirmavit et dixit ipsum Ulricum suum legit. fore maritum; dictus Petrus eandem dimisit et cum quadam alia mul. nomine Anna Sutoris de Horhen Spiren. dioc. matrim. similiter contraxit (...); medio temp. Ulricus a dicta Magdalena recessit et eo sic absente ipsa Magdalena dictum Petrum ad cur. Spiren. sus per matrim. in causam traxit et eum corarn certis iudicibusdicte cur. evocari fecit; qui iudices taliter qualiter procedentes Magdatenam Jegit. ipsius Petri ux. fore verunt prefato Uirico tunc absente et minime vocato, qui demum reversus percipiens manifeste ut prius dixit

the legitimate husband deserted Magdalena again, she tried to force Peter once more to live with her by taking him to court, which accepted her as Peter's legitimate wife. The Apostolic Penitentiary claimed that in cases like this, the order of vows should be considered: who legitimately vowed to whom first. If Magdalena was bounded to Peter after making a vow to another man, Peter could stay with his new wife.

Local secular authorities could also become instruments of coercion. The most popular punishment for fornication was imprisonment. Counts, nobles, and provincial governors used it as a means of conviction to avoid scandal or control lovers. For instance, the horrifying conditions in prison forced Wernherus de Sultzbach to marry his concubine, count Ervino of Glichen's servant.[416] The count made Wernherus reunite with her after revealing their long-lasting sexual relationship in his house and even child (or children) born from it.

Aside from fraud, ecclesiastical and secular power, there were more prosaic means of coercion. Victims could be harshly beaten,[417] or the coercer would suddenly come to their house and extort the marital vow where was no help around.[418] Small children could be left in their spouse's house to grow and consummate the marriage, as it happened with Arkonus and Meysta, who came together to the Apostolic Penitentiary in 1486 from the Münster diocese.[419] They lived in one house during the seven years after the *sponsalia per verba de futuro* at the age of seven and nine, but never consummated the marriage. Both of them asked to marry another man and woman and were granted permission.

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ipsam Magdalenam suam legit. ux. esse, deinde vero ambo) ab eisdem locis recesserunt et cupit dictus Petrus cum prefata Anna in matrim. remanere et illud in facie ecel. sollempnizare (...)"
[416] RPG VI.3037: "Wernherus de Sultzbach laic. Magunt. dioc.; [exponitur pro parte] quod cum ipse olim nob. Ervino comiti in Glichen Magunt. dioc. familiaretur, quandam Engelinam de Jagenitz mul. iuvenem Magunt. dioc., que etiam prefato comiti serviebat, actu fornicario pluries carn. cognovit et ex ea prol. procreavit; et propterea dictus comes reputans sibi fornicationis huiusmodi per exp. in domo sua perpetratam ad magnam iniuriam [esse] exp. diris carceribus violenter mancipavit et iuram. ab ipso, quod exp. si idem comes peteret cum dicta Engela matrim. contraheret, extorsit; ipse exp. dicto comiti per vim et metum, qui cadere poterat in constantem, cum dicta Engela, si prefatus comes hoc peteret, matrim. per verba de pres. contrahere promisit et iuravit (…)"
[417] RPG VIII.3273; VI.3740; Schmugge, *Marriage on Trial*, 135-136.
[418] RPG VI.3592; VII.2598.
[419] RPG VII.2502; see more in Schmugge, *Marriage on Trial*, 123-124.

The refusal to consummate was an essential instrument of protest in the Registers. As stated in the previous chapter, consummation by itself remained an important issue for the canonists. Some of them, as Gratian, did not consider a marriage legitimate without it.[420] Pope Alexander III confirmed that consent expressed in the present tense created the marriage immediately, but betrothal was rendered into legitimate marriage by consummation.[421] The Registers show that intercourse continued to play a significant role, and it was a binding element of the marriage.[422] In 41% of the cases of marital coercion (34 out of 82), the petitioners confirmed that there was no consummation between them and the spouse, even if they slept together before.[423] In another 20% (16 out of 82), the lack of consummation is evident, though not expressed, for instance, the spouses never lived together, or one of them immediately escaped to another country. This emphasis on lack of consummation can be connected with the Canon Law rule about long cohabitation justifying the problematic marriage; it was much more difficult to prove the coercion if the couple lived together for some time and consummated the union.[424] Thus, in almost all cases from the Registers in which the consummation of forced marriage took place, it would not change the decision or add doubts about the coercion. These cases entailed various scenarios, in one case a consummated forced marriage followed the legal one (so the first vow was valid and nullified all following vows);[425] in another the wife had already agreed that her husband could go to a monastery after the forced marriage;[426] or a person wanted to remain with the forced

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[420] Oksana Bandrovska, *Betrothal in Medieval Canon Law from Decretum to Liber Sextus* (Saarbrücken: Südwestdeutscher Verlag für Hochschulschriften, 2018), 30-34.

[421] X 4.1.30: "Sponsalia de futuro transeunt in matrimonium per carnalem copulam subsecutam, sed non per nisum carnalis copulae tantum. H. d. cum c. fin. infra eodem. Idem Episcopo Cenomanensi. Is, qui fidem dedit M. mulieri super matrimonio contrahendo, carnali copula subsecuta, etsi in facie ecclesiae ducat aliam et cognoscat, ad primam redire tenetur, quia, licet praesumptum primum matrimonium videatur, contra praesumptionem tamen huiusmodi non est probatio admittenda. Ex quo sequitur, quod nec verum, nec aliquod censetur matrimonium, quod de facto est postmodum subsecutum."

[422] About dissolvement of the non-consummated marriages see more in d'Avray, *Papacy, Monarchy and Marriage*, 154-173.

[423] See more in Schmugge, *Marriage on Trial*, 124-125.

[424] Noonan, "The Steady Man," 654; Noonan, "Power to Choose," 432.

[425] RPG I.943; VI.3750.

[426] RPG III.539; VII.2306.

spouse,[427] or the previously noted case in which the marriage was bigamous,[428] or an unwanted spouse was already dead.[429] In none of these cases did the consummation change the validity of the vow (or lack thereof), as far as can be ascertained from the narrative. This suggests that while consummation was not as substantial as consent, but with proven consummation a marriage was more difficult to dissolve and people understood that.[430] The following case of a certain Ursula Sessin from the Augsburg diocese demonstrates this acute awareness.

Ursula was a poor girl in the servitude of Count Hugon de Monfort but had a long sexual relationship with Vitus, a rich man from the same diocese.[431] It could have turned into a Cinderella story had Ursula's brothers and friends not decided to play the role of the Fairy Godmother and chose the wrong approach. They (intentionally) caught the two of them when Vitus was naked and unarmed and forced him to marry Ursula. After that, Vitus ignored Ursula and did not want to sleep with her, but she followed him everywhere and asked for the consummation. He refused and beat her up, but the girl did not give up and came to him at night. Ursula seduced him until he finally slept with her noting that *eam non ut uxorem legitimam sed concubinam cognoscere vellet*. After that, he applied to the Penitentiary to dissolve the marriage in 1487.[432] Vitus's narrative cannot be ascertained in the absence of

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[427] RPG I.604.
[428] RPG V.1896.
[429] RPG I.202.
[430] Butler, "I Will Never Consent to Be Wedded with You!," 254-269.
[431] Schmugge, *Marriage on Trial*, 132-134.
[432] RPG VII.2532: "Vitus Hertz laic. August. dioc. exponit, quod postquam ipse olim quandam Ursulam Sessin mul. August. dioc. pro virgine se gerentem pluries actu fornicario carn. cognovisset, fratres et amici dicte Ursule hoc advertentes ac dictum exp., quia liber et pater eius dives, ipsa vero Ursula pauper mancipii et ratione servitutis magnifico comiti Hugoni de Montfort et suis heredibus subiecta est, superstitiose apprehendere volentes et pretendentes, quod tempore dum exp. et dicta Ursula prefati insimul associati essent dicti fr. et amici clam et improviso prefatum exp. nudum et inermem invaserunt et eum, ut matrim. cum prefata Ursula contraheret quod si non faceret manus eorum non evaderet per vim compulerunt; verum exp. vi et metu mortis et non alias ductus invitus et contra voluntatem cum ipsa Ursula matrim. per verba de pres. contraxit (...); prefata tamen Ursula instinctu ut creditur fratrum et amicorum incitata dictum exp. continue sequi ipsum rogando, ut eam carn. cognoscere vellet non cessavit, qui eam sepius verbis et verberibus correxit et retinuit asserens ipsamque coniugem suam non esse neque matrim. violenter cum ea per vim et metum mortis contractam umquam ratum et gratum habuisse et habere velle; dicta vero Ursula his minime acquiescens in sero cubile dicti exp. sepe clam intravit ipsumque in lecto accedens suis blandiciis incitavit, eundem exp. tandem quod dictus

other documents of the case, but the story shows how important consummation was in a forced marriage, and how a long and complicated explanation was necessary to recount how it had happened. Thus, the refusal of consummation, similarly to the precedents in *Liber Extra*,[433] served as an instrument and proof of protest in forced marriages.

Sometimes, the situation got complicated because the new spouse was a close relative to the previous forced one. If the Penitentiary did not nullify the first marriage, the second one would be impossible because of *publice honestatis justiciae*. This happened to Gaspar de Wilsberg and Veronica de Vogesperg (Strassburg diocese, 1487).[434] Veronica was married by force to a Henrich de Wilsberg, who neither agreed to nor consummated the union and moved to another country. But Veronica wanted children, so she married Henrich's brother, Gaspar, and they appealed to Rome. The ruling was stated that Heinrich's fear and escape from cohabitation would be proof of the validity of the petition. Rare for such cases, Henrich's petition was also recorded: he added that he was eighteen years old when his parents forced him to marry Veronica, and at the time of his petition to the Penitentiary, he had intentions to marry another woman.[435] Henrich was granted absolution from his marriage to Veronica but since his case appeared in the Registers two years earlier than that of Veronica and Gaspar, there was a certain problem with Veronica's marriage, so she needed to come to the Penitentiary as well.

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exp. ex fragilitate carnis avisando primitus eandem Ursulam quod eam non ut ux. legit. sed concubinam cognoscere vellet, quibus verbis ipsa expresse assentiebat iteratis vicibus actu fornicario carn. cognovit (...) supplicat dictus exp., [quod] (...) propter premissa prefate Ursule nullo vinculo matrim. astrictum esse, sed premissis n.o. cum aliqua alia mul. nullo iure sibi prohibita matrim. contrahere posse."

[433] X 4.1.13.

[434] RPG VII.2522: "Gaspar de Wilsberg laic. et Veronica de Vogesperg mul. coniuges Argent. dioc. exponunt, quod cum olim quidam Henricus de Wilsberg laic. et armiger Argent. dioc. fr. carn. dicti Gasparis non sponte sed coactus per talem vim et metum, qui cadere poterat in constantem virum matrim. per verba de pres. cum dicta Veronica meticulose contraxisset carn. copula et inutua cohabitatione inter eos minime subsecutis, et vi et metu cessantibus dictus Henricus numquam ad eius libertatem pervenerat in matrim. et dictam Veronicam consentire neque ipsum matrim. ratum et gratum et prefatam Veronicam in suam ux. habere et recipere vellet (...) et ne matrim. ad effectum deduceretur ab illis partibus recessisset et ad alienas partes se transtulisset (...)"

[435] RPG VII.2465.

In some cases entering a monastery was a solution; for example, in the aforementioned case of Ludmilla de Melicini, a noblewoman from the Olomouc diocese (1483), who took the veil because a nobleman, Przibislaus, publicly proclaimed marriage with her against her will.[436] She escaped to the Augustine monastery, similarly to women from *Liber Extra* who chose monastic vow over an unwanted matrimony.[437] The difference was that Ludmilla took the situation seriously, moved to a monastery, changed into a habit, and refused to leave. She was granted permission to remain a nun as she wished to. Other cases also show that people used the Penitentiary not only to get the declaration confirming the new wanted marriage or vow but also to seek protection from the abuse in difficult circumstances. For instance, Margarita from Vortarpen, a pregnant widow from the Osnabruck diocese (1499), applied to be protected from Johann Rostey, who convinced her to marry but returned to his concubine, damaged Margarita's property, and created many troubles for the widow.[438] Her case is typical because, as Sara Butler said, many men used forced marriage of unprotected but wealthy widows to "get ahead in the world".[439] The declaration could save from the secular authorities as well: thanks to the Penitentiary, Helena vamme Hove (Trier diocese, 1474) could marry a man she wanted, even though the nobles under Count Henrich de Nassau had forced her into another marriage.[440] Thus, the declarations from Rome not only nullify the coercion from the past, but also protected from the ongoing coercion or possible future pursuing when the victim was not protected by friends and relatives.

Thus, despite the pervasive decline of ecclesiastical institutions in the fifteenth century, addressed in the Introduction above, the firm basis of a developed medieval Canon

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[436] RPG VI.3789: "Ludmilla de Melicini mul. nob Olomuc. dioc.; [exponitur pro parte] quod olim quidam nob. Przibislaus Maladaneli Olomuc. dioc. asserens matrim. cum illa per verba de pres. publ. in facie eccl. carn. copula minime subsecuta contraxisse, econtra ipsa tunc in quodam mon. o.s.Aug. b. Marie Virginis op. Brunne Olomuc. dioc. monial. sub cura et regimine o.pred. degentium existente et renitente, in curia causarum curie bone memorie dum viveret ep. Olomuc. propterea movit causam (...)"

[437] X 4.6.5; 4.6.7.

[438] RPG VIII.3400.

[439] Butler, "I Will Never Consent to Be Wedded with You!," 248.

[440] RPG VI.3511; Schmugge, *Marriage on Trial*, 134.

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Law helped solve the cases of coercion and support free will in marriage – at least in the stories from the Apostolic Penitentiary. While for some people the Penitentiary, as well as any other ecclesiastical or civil court, was just an instrument of fraud or a way to escape the punishment for fornication, others looked for protection that they could not find anywhere else. In their narratives, they described the abuse in terms of physical violence, threatening, fraud, or imprisonment, and how they protested, refused consummation, escaped, took monastic vow or entered another marriage. These descriptions recalled the famous precedents of medieval Canon Law, or referenced to basic canonical principles of consensual unions. Using the theoretical Canon Law, people could protect themselves in practice.

Still, it does not mean that all victims were saved from coercion using ecclesiastical institutions as courts or the Apostolic Penitentiary. The Register's cases are only a small part of the whole medieval reality of arranged and forced marriages and abductions. The parental choice was still important and could be a condition even for willing unions.[441] Many victims, forced by relatives, "aggressive suitors" or ex-lovers, succumbed or escaped without the help of institutions, so we do not know anything about them.[442] Thus, the cases of marital coercion shed some light on forced marital stories in medieval Europe but never show the whole picture.

4.4 Gender Analysis of the Cases

Gender aspects in the coercion cases from the Registers reflect important tendencies in medieval society and the relationship between gender and power in their full complexity. On the one hand, they show a rather atypical picture of the medieval gender relationships: most petitioners in forced marriage cases are men; also, women played an essential role in

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[441] McShoffrey, "I Will Never Have None Ayenst My Faders Will": Consent And The Making Of Marriage", 153-174.
[442] Butler, "I Will Never Consent to Be Wedded with You!," 249-252.

oppression as mothers, prioresses, abesses, etc. On the other hand, the involvement of male relatives, solid parental authority, and male secular authorities is also evident.

First of all, even if women took part in coercion, the power of fathers and older male relatives was more notable. For instance, in 25 cases of forced monasticism, fathers were identified coercers, either with or without the help of relatives. In cases of forced marriage, not only the father but also the brothers of women or male secular authority took action.[443] It was often connected to *infamia* of a girl who had sexual relationships, so the male relatives forced her sexual partner into the marriage. While in some cases women were described as coercers, placing a trap or seducing a victim to consummate the marriage,[444] in other cases, their consent or involvement was not mentioned, even if their male relatives or a *dominus* forced a man to marry a girl.[445] Moreover, she could be firmly against their coercion.[446] The male relatives also played a crucial role in the episodes of force to marriage or monastery of orphans, whose father had been replaced by a male successor. Caring about *hereditas* more than about the children, new guardians used power to force children to marry or take the habit.[447]

Under the authority of the older male relatives, both girls and boys could end up in the same situation of being vulnerable due to their age and/or orphanhood. Even if the victims protested in the convent or refused to marry, the protest would not have had any effect unless they reached *aetas nubile*, escaped, and took a petition to the Penitentiary. Gender did not significantly influence the whole situation. For instance, in her research, Corinne Wieben stated that although most studies focused on forcing women into marriage, young men, "betrothed at an early age and depicted as passive players in the marriages arranged for them by their parents, more closely resemble the girls and women objecting to sponsalia

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[443] For instance, RPG VI.3731; VIII.3404; VIII.3273.
[444] For instance, RPG VI.3495; VII.3532; VIII.3272; see more in Schmugge, *Marriage on Trial*, 127-129.
[445] RPG V.2128.
[446] RPG VI.3699.
[447] For instance, RPG VI.3722; II.479; VI.3475.

contracts."[448] Thus, children of both sexes, especially orphans, were less protected and less resistant to coercion. As mentioned above, the children placed into the monastery sometimes tried to dissolve the coerced vow, but children of arranged marriages rarely appeared in courts and followed the choice of relatives; here, the Penitentiary cases follow the general pattern of litigation in Europe.[449]

Indeed, women happened to be the oppressors in the cases of the Penitentiary, but not to the same extent as men. First of all, they could use the help of relatives and friends to obtain what they wanted from the victim.[450] Secondly, a woman mentioned as coercer was most likely a widow (in the Registers as *mater*, but when the father's decision was never mentioned, she most likely was a widow), a prioress or abbess, the most independent categories of medieval womanhood.[451] Finally, women used ecclesiastical courts or threats from hired men or relatives as means of coercion; they never came to the victim's house and forced anybody to marry by mere threatening words as male oppressors did.[452]

At the same time, acting alone was rare, even for the male coercers. Many cases of coercion to a monastery, and even more cases of coerced marriage, happened *mediantibus cognatis et amicis*, involving people close to family. Sometimes, it even led to the division of the family, as in the case of Barbara Zymermanin, whose relatives from mother's and father's sides had different opinions with whom she should be.[453] The marriages or even decisions to send a child to monastery were important for the whole family,[454] and the more people involved, the less choice the victim had. Striking is the case of Johannes de Warnat, a cleric who asked absolution from the involvement in killing his aunt's new husband. He claimed

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[448] Wieben, "Unwilling Grooms in Fourteenth-century Lucca," 272.
[449] Helmholz, *Marriage Litigation in Medieval England*, 98.
[450] For instance, RPG VII.2613; VII.2618; VIII.96.
[451] For instance, abbess and prioress became more independent already in the times of the Gregorian reform, see Eva M. Synek, "Ex utroque sexu fidelium tres ordines – The Status of Women in Early Medieval Canon Law," *Gender & History* 12 (2002): 75.
[452] RPG VI.3592.
[453] RPG V.1954.
[454] McSheffrey, "I Will Never Have None Ayenst My Faders Will,"159-174.

that her union was unwilled for the whole family and led to problems with the inheritance, so the relatives opposed the new union and it led to the violence.[455] Moreover, impact of parents and relatives caused the problem of collision with the general principles of Canon Law, which were already developed before the fifteenth century. For canonists, marital and monastic vows were individualistic and consensual, even implying gender equality;[456] with his unclearness about the role of parental authority, Gratian was already outdated. By contrast to him, more recent and important figures such as Thomas Aquinas, Alexander III, and the Decretalists mainly emphasized the individual choice and placed a commitment to God higher than a commitment to parents.[457] But the reality in the society was different, and the tension between it and medieval Canon Law principles led to various problems in the society, including the issue with marital and monastic coercion.

Thus, the Registers show the general tendencies in the relationship between gender and power. While theoretical Canon Law principles could be equal for sexes and individualistic, and jurists already applied some of "male" legislative language to women (as *cadere in constantem*), the society was still patriarchal, family-centred, with the dominance of older male relatives and secular authorities. Possibly, this can explain the lower number of female petitioners in the Apostolic Penitentiary. Being subordinated or restricted in choices and actions, they could not often oppose the coercion. They could lack physical possibility or financial means to make a petition;[458] finally, as Makowski stated, "there was the emotional cost."[459] We should not forget that the petitions often opposed hostile relatives or community, and could bring new violence or phycological abuse. Even if theoretical Canon Law was a well-developed instrument to do so, the individual situation of a woman or even of a

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[455] RPG III.432.
[456] Reid, "So It Will Be Found That the Right of Women in Many Cases is of Diminished Condition," 491-498; ST, II-II, Q.89, Art.5.
[457] ST, *Supplementum*, Q.43, Art.2-5.
[458] About the costs of petitioning, see more in Schmugge, *Marriage on Trial*, 42-54; Schmugge, "The Cost of Grace," 41-58.
[459] Makowski, *Apostate Nuns in the Later Middle Ages*, 50.

subordinated male member of the family determined whether they could use this instrument or not.

Conclusions

Here is where our journey with the petitioners of the Apostolic Penitentiary ends. Gerard from Perteberg, Elizabeth from Krakow, Theodorica from Utrecht, Yda from Cologne, Georgius from Ausburg return home from Rome or receive their letters of grace, never to be seen in the Penitentiary again. Maybe, one day a scholar will find their stories in the local archives and figure out whether they told the truth in the supplications and how they lived after the petitioning. But I am grateful for their presence: they helped me to show that the Registers, even with the cases rephrased by jurists, abbreviated, and narrated in a particular way, are indeed the collections of personal stories and individual narratives rather than a dry and tedious source of the Church bureaucracy.

In the Introduction, I stated that this study would describe coercion tendencies and ways in which victims protest. The Registers show that the best possible strategy was to come (or write) to Rome and tell your story in a way that nobody would doubt the injustice and oppression done to you. After hiring a good proctor, it was essential to exaggerate the coercion, describe the cruelty and injustice you suffered, show the continuing intention to be free from marriage or monastery and long-lasting protest, and use formulas or quotes from the Canon Law regulations to consolidate the narrative.

Does it mean that everything they told was a lie? I do not think so. The tendencies and types of stories the victims described are similar to cases that we know from other sources: ecclesiastical court registers, papal decretals, secular documents, etc. For instance, it is not a surprise that children were forced to enter monasteries under coercion, like Dorothea from Konstaz was being only four years old. It seems common that an orphan left under the dominance of older male relatives had to follow their wills against his/her own, like Agnes from Vilnus had to marry the man he never met before just when her oncle became her custodian. It is obvious that the family of a woman would try to cover her *infamia* forcing the unlucky lover to marry, as Christoforus from Rome did to his daughter. But there were other

tendencies in the Penitentiary, which could not be explained so easily. Most of the petitioners from the cases of coerced marriage were adult men. The monastic authorities seemed to play an important role in the coercion, even if the basic rules of monasticism forbade coerced vows and they knew it. Some victims did not ask to return to the world but only to change the monastery. The reality of medieval coercion is very complex: thus, studying it on the examples of particular cases is so important.

Primarily, my research intended to show who was coerced to marriage and monastery and how they presented themselves in the Penitentiary, which was only scarcely touched by scholars who studied the institution before. In monastic cases, most of the victims were women placed in the convent in childhood, so they were affected by the coercion twice: when they started to live in the convent and when their time came to take the monastic vow. Both male and female victims described vivid pictures of suffering in the convents and continuing protest: they wore only novice clothes, proclaimed the intentions to live *in seculum* to local monastic authorities and the oppressors, planned to escape even under incarceration, and finally ran away. Let's suppose all they told was true and it was a usual situation in medieval society. In that case, it is hard to imagine how many children's wills were broken or how many finally agreed, convinced of the necessity to take the habit. Thus, those who eventually came to the Penitentiary could not be the ordinary people: they had to have money, support, or at least audacity to fight for their free will.

In marital cases, most of the petitioners were adults and men. Not many of them were celibate clerics: most wanted to avoid the unwanted union and remarry. Men and women vividly described how they were forced into the marriage: from the mere threat (but enough to move a constant man or woman) to the physical abuse, incarceration, and the decisions of the ecclesiastical courts. All petitioners were convinced that *matrimonium libera debere esse*, so the unions they contracted were void. Despite that, victims did not rely only on the coercion

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by itself if there were other problems with marriage: it was better to mention existing impediments, previous vows, and lack of consummation to guarantee favorable decision. Similarly, the petitioners from the monastic cases also used other arguments where possible: they could argue that the forced vow was made before the legitimate age.

For both monastic and marital cases, the families were the primary sources of coercion. The short narratives of the cases did not always tell about the reasons why they did so. Sometimes, it was because of poverty or the devotional oath of the parents; money was the reason mentioned the most when oppressors intended to get rid of the spare heir or access somebody's wealth through marriage. Gender analysis showed a few important patterns, which could be a contribution to medieval gender studies. First of all, even if a woman (mother or concubine) took part or initiated the coercion, she most probably used the male help of the relatives or friends. Second, even if the coercer was a father, his choice or execution of the coercion often involved other relatives, so the oppression became a rather collective action of the big family. Third, the orphans were less protected, regardless of gender or richness. The small number of children's forced marriages presented in the Penitentiary showed that children mostly agreed with their parents' choices giving up their right for free will; this tendency is similar to the cases of the ecclesiastical courts. But the relatives were not the only source of oppression. In matrimonial cases, the secular authorities could take power and arrange the union, while local ecclesiastical authorities played an essential role in monastic cases.

Finally, the part I wanted to focus on was the correlation between the Canon Law regulations and the cases of coercion. Even if the coercers were numerous and powerful, victims could fight for their free will because Canon Law tradition gave them this opportunity. The declarations against coerced vows would not appear in the Registers if the canonists, popes, and theologians did not formulate the concepts of free will and consent to

marital and monastic vows, developed the complex regulations of these concepts, and solved many precedents as examples for the future. It did not mean that they invented panacea from all possible forms of forced vows: the definitions of consent and coercion remained vague, and many nuances such as marriage *sub pena nubendi* were a matter of long-lasting discussions without a clear conclusion, so the judges and canonists had to improvise in every complicated court case. But it was also a reason why medieval Canon Law became more and more flexible. It is why the petitioners of the Penitentiary could adjust their narratives to the rules, using formulas and concepts from the existing canonical sources.

Still, some of the questions about the coercion in the Registers remain unclear and had to be studied with other sources used. Did the proctors referenced Canon Law from memory, or did they have some special formula books for it, like the Chancellery jurists? Could the petitioner add the non-existing impediment to the coercion, for instance, saying that he was under the proper age to take the vow, but he was not? Why some petitioners came many times to the Penitentiary if they did not change the narrative much and told each time the same story? On which grounds the cases of coercion would be rejected? The Registers did not have this information, but other sources of the Penitentiary may include it.

There are many possibilities for further development of the topic, and some of them were mentioned before. First of all, it would be helpful to look into the local sources and find the other proofs or rebuttals of the stories told by victims. Secondly, there are many registers for other territories (non-German speaking), published and unpublished; it is possible to study forced monasticism and marriage and compare the results between different lands or between the Penitentiary cases and cases from local ecclesiastical courts. Also, as mentioned briefly, the Penitentiary had many other types of coercion: forced crimes, oaths, sex, or else. Finally, the accessible part of the Penitentiary archives does not end in 1503, but in 1564, so there are still volumes to be covered. Maybe, one day, Pope Francis will let the scholars see some more

registers from the later periods, and the historians would be able to analyze tendencies of coercion in much longer perspective.

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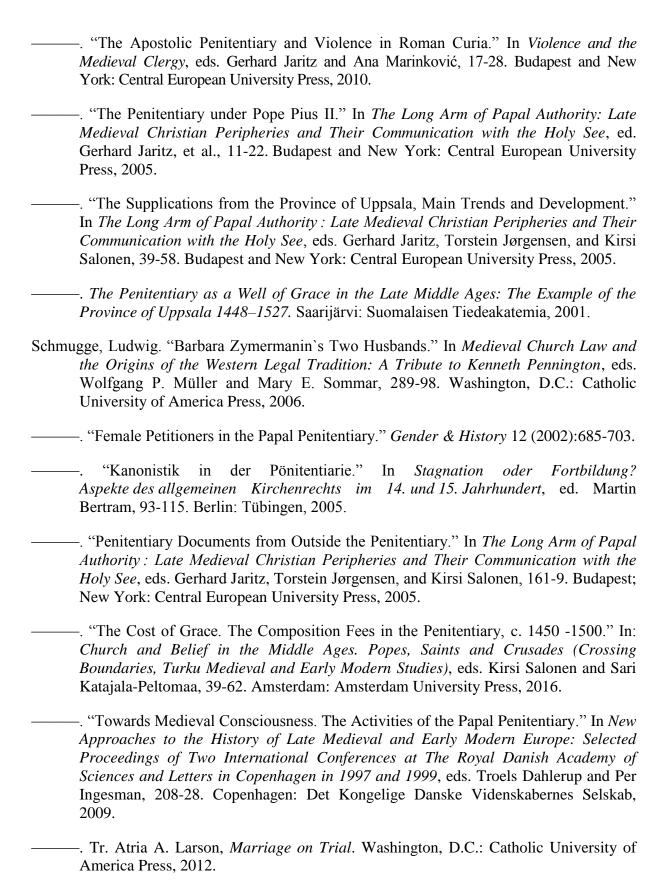
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