

*"The Pleasure of Privacy: Confession and Inquisition as Means to Cause the Correction of Sinful Consciences around the IV Lateran Council"*

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## **ABSTRACT**

The passage of the public penance to private penance was the loss of the public character of the punishment, but also that the Church lost the control of behavior, because its repression would depend now only of the personal need for forgiveness of each faithful. In addition, under these new circumstances, heterodox forms of profess religion, heresies, which infected the population, and it was linked to the fact that many sexual behavior contrary to Catholic morality extend arise among the population, which already should not purge their sins in public. This situation pushed the Church to face a new situation: to cause voluntary contrition of the penitent. The IV Lateran Council faces the problem from four aspects: 1. the annual obligation to the confession and that this is done with the "proprio sacerdote", to ensure that the Confessor knows the circumstances of the sinner, 2. The canonical regulation of marriage, in order to exclude attitudes contrary to morality; 3. The creation of chairs of theology, to train priests and these to the faithful, through the preaching; 4. The establishment of the inquisitorial courts, which will be the punishment for those who do not accept the contrition and the amendment of its life. Our work is focused on this need of cause the voluntary contrition, and the means employed to achieve this. We study the similar evolution of the sacrament of penance and the inquisitorial process, which together with the preaching, involves the exercise of the triple ecclesial Ministry: *munus regendi* and *munus docendi*, *munus sanctificandi*.

## **KEYWORDS**

Heresy, Inquisition, guilt, confession, excommunication, condemnation, sin, crime

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### 1. INTRODUCTION

The power to absolve sins that the Church has received from Christ: “*Any to whom you give forgiveness, will be made free from their sins; and any from whom you keep back forgiveness, will still be in their sins*” (Io 20, 23) has always meant the ability of the Church to exercise a certain domain over the consciences of its members in particular and all the society in general. For many centuries, the calamities that the man has suffered had made clear his fragility. All his hopes were focused on Sky, whose door, perhaps very close, was guarded by the Church (*Go in by the narrow door; for wide is the door and open is the way which goes to destruction, and great numbers go in by it. For narrow is the door and hard the road to life, and only a small number make discovery of it.* Mt 7, 13-14); this door should be crossed with the soul without sin, and the only way to clean it was in the Church's hands. In this way, the Church had a very useful tool to dominate the conscience of the faithful, but after some time, the believers will gain space in decision making. It was the beginning of the pleasure of privacy.

My work is focus on the evolution of the way in which the Church battles against this pleasure, especially when the public character of the management of the confession is lost and the Church ceases to get their hands on the conscience of the faithful. The man obtains a freedom that allows him to assess his own actions (to some extent; the conscientious Christian was typical of that time, not only a product of the strict control over the salvation or condemnation of the men). However, this liberty often leads to immoral acts or situations opposed to the straight Christian conscience. This situation

will cause a series of acts by the Church that will be directed to regain its authority in not only collective but also individual morality.

## 2. THE EXERCISE OF THE CONFESSION DURING THE FIRST MILLENNIUM

The exercise of this power over minds, traditionally exercised by the Church in the confession, suffered several variations throughout history. At first, it is an institution distinctly legal. It was the presence of an inmate and a court, an offence and a sentence that should be obeyed. Note here where both justices are different, this is the divine and the human, is in the fact that all accused who voluntarily come to confess his fault are absolved by the Mercy's Court<sup>1</sup>. This is a note, however, that resembles the grace periods that accompanied the arrival of an Inquisitor and the objective of the sermons of the itinerant preachers<sup>2</sup>.

It is precisely for this medicinal character that the simple and transparent compression of the gravity of evil committed by the sinner is required, as well as the serious danger that entails the persistence in sinful attitudes for personal salvation<sup>3</sup>. In fact, when the Church punishes with the highest penalty, i.e. the excommunication, an fact, it does so to reveal the terrible gravity of the sin, not only for the own actor but for the entire ecclesial community. It is precisely this fact of belonging to the ecclesial community that makes that all sins necessarily impact on others, and the community must be defended against such a threat, but without forgetting the desiring to return to the fold, as it is the salvation is the true objective of the action of Ministers<sup>4</sup>.

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<sup>1</sup> Cf. «Concilium Tridentinum», en DS 1682.

<sup>2</sup> Cf. IOANNES PAULUS PP. II, «Adh. Ap. *«Reconciliatio et Paenitentia»» cit. n. 31, II: “(...) secundum antiquissimam translaticiam notionem genus quoddam actionis iuridicialis. At hanc apud tribunal fieri contingit misericordiae, magis quam strictae severaeque iustitiae, quod cum iudiciis humanis nisi analogice conferri non potest, quatenus illic peccata sua peccator suamque ipsam condicionem creaturae peccato subiectae patefacit; sese officio obligat ut abiciat evincatque peccatum; suscipit poenam (sacramentalem paenitentiam), quam imponit ei confessarius, eiusque recipit absolutionem.”*

<sup>3</sup> CCE n. 1473: “Venia peccati et restauratio communionis cum Deo remissionem aeternarum poenarum peccati secumferunt. Sed poenae peccati permanent temporales. Christianus, passiones et probationes omnis generis patienter tolerans et, cum advenerit dies, mortem sereno respiciens animo, niti debet ut has peccati temporales poenas accipiat tamquam gratiam; per opera misericordiae et caritatis atque etiam per orationem et diversa poenitentiae exercitia, incumbere debet ad «veterem hominem» plene exuendum et ad «novum hominem» superinduendum (cf. Ef 4,24).”

<sup>4</sup> SANCTI CAELESTINUS I, *epist. 21, ad episcopos Gaellicum. Apostolici verba praecepti, in PL 50, 530 A.*

## 2.1 Confession, advertising of sin and the penitents in the first centuries.

It is precisely this public character which involves some special conditions in some sins<sup>5</sup>. Heresy, or apostasy in times of persecution, meets the usual conditions of the sinner (a baptized, which retains the name of Christian) an Act (intellectual error with pertinacity) and an object (sinful matter: *(aliquam ex veritatibus fide divina et catholica credendis)*)<sup>6</sup>. In addition, it is present the public character of his act, which causes scandal to others and have to necessary a public penance. Tertullian, around the year 203, write: ""*They shy away from this duty as well as of the public disclosure of their people, one day and another... is it perhaps better to be sentenced in secret and forgiven in public?*"<sup>7</sup>.

Until the 7th century, the Church recognizes three forms of forgiveness of sins: baptism, which cleans the man from all previous sin<sup>8</sup>; daily penance, reserved for less serious sins<sup>9</sup>, and public penance, required for serious sins, such as adultery, murder and apostasy<sup>10</sup>.

Public confession (what we might call specifically sacrament) was only received once<sup>11</sup>, and it was considered as a second baptism<sup>12</sup>. Certainly, because of the degree of close intimacy existing between the members of the first Christian communities, was difficult that sins were not public, either because the apostasy during the persecutions was not strange or because the faith was lived communally. Therefore, the familiarity of the spiritual life difficults the privacy, as well as the difference of conception of private or intimate at the time. In addition, we must consider also that sin was an offense to the community because it loses greatness on their way to heaven. A detail that shows the seriousness of this separation of the flock of the Lord, as said Cesareo, is the imposition

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<sup>5</sup> AUGUSTINI HIPPONENSIS, «In epistulam Iohannis ad Parthos tractatus, 1, 6» en PL 35, 1982.

<sup>6</sup> St. Thomas says that heresy is the refuse of "verdades de la Escritura revelada, exposiciones de la Sagrada Escritura, verdades de cuya negación se sigue algo contrario a la fe.... lo cual puede ser muchas veces una verdad formalmente revelada e incluso explícitamente" (C. POZO, «La noción de "herejía" en el Derecho Canónico Medieval», en *Revista de Estudios Eclesiásticos* 35 (1960) p. 238)

<sup>7</sup> The *ἐξομολόγησις*, or public penance, (Cf. TERTULLIANUM, «*de paenitentia*», in PL 1, 1243-1248).

<sup>8</sup> Remember that although infant baptism was also not strange at the time, Christianity is still hiding leaving and arriving for the first time the inhabitants of the Empire, which was unusual for the sacrament was received already in adulthood, with the whole process that entailed and will not explain here.

<sup>9</sup> Cf. 1 Pe 4,8. Some of these media were prayer, listening to the Word, the sharing of goods, the fast... Shall the Shepherd of Hermas "Ayuna, para Dios un ayuno de este modo: sin hacer mal alguno en tu vida, sino que servirás al Señor con puro corazón; cumple sus mandamientos, caminando en sus preceptos, y ningún deseo malo entre a tu corazón" (Lib. III, Sim. V, en PG 2, 961-962, Tr. of A).

<sup>10</sup> Offenses that always are on the jurisdiction of the Inquisition.

<sup>11</sup> HERMAS, «*Pastor*», Lib. III, Sim. VIII: (in PG 2, 971-972).

<sup>12</sup> Tertullian speaks of the second plank (of salvation) after the shipwreck which is the loss of grace (Cf «*de paenitentia* 4», en PL 1, 1233).

of the sackcloth during the ceremony of admission to the penitential group, which obliges the Council of Agde (*poenitentes, poenitentiam petunt impositionem manuum cilicium super caput et quod tempore sacerdote*). This sign represents that it is not sheep but billy goat: "*non is agnos sed haedos publice profitentur*"<sup>13</sup>.

Therefore, despite that the Evangelical Council invites to intimate correction, "*corrigere eum inter te et ipsum solum*" (Mt 18, 1-5)<sup>14</sup>, during the first centuries the public practice of confession is the norm. For this penance the sinner suffers a long, public and severe process. It has three well defined parts:

Incoming *in ordine poenitentium*, where the sinner accuses himself in front of the Bishop, he is separated from the rest of faithful (*locus poenitentiae, ad limen ecclesiae*) and the sackcloth is imposed him;

The expiation's period, which could be just over a little period or a very long time on the basis of the decision of the Bishop<sup>15</sup>. In this time the sinner could be secluded in a monastery (*suscipis eum IV fair mane in capita et cooperis eum cilium et quadragesimae oras pro eo, et in claudis usque ad Coenan Domini*<sup>16</sup>) and had to pray and fast.

Finally, reception of the solemn absolution by the Bishop<sup>17</sup> during the Maundy Thursday night, with the recovery of the right to the Eucharist (*reconciliatio altaris*)<sup>18</sup>.

But there is not an abandonment of the penitents, despite the humiliation that involved their separation from the rest of the flock, which reached even affect family relationships, and which frequently caused the shock of the community. The ambrose liturgy includes prayer for the penitents (*pro... poenitentibus precamus te*), and Hieronymite tells us how Fabiola, an illustrious community's member who has sinned, arose at the Lateran with the sackcloth, covered in ash, barefoot and crying for her sins.

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<sup>13</sup> Cf. *Concilios visigóticos e hispano-romanos*, ed. VIVES, J. Y OTROS, Barcelona-Madrid 1963, p. 160, sermo 56.

<sup>14</sup> "*Poenitentia publica de peccatis publicis, occulta de occultis*". (Cf. RANKIN, T., *Jurisdiction in the sacrament of penance: a canonical-theological schema*, Katholieke Universiteit Leuven 2011, p. 10).

<sup>15</sup> «*Concilium Carthaginensis*», in DS 64: "*Ut poenitentibus secundum differentiam peccatorum, episcopi arbitrio, poenitentiae tempora decernantur.*"

<sup>16</sup> Cf. *SACR. GELASIANUM*, n. 16. Some aspects of this section of Gelasian ritual show us that amendments were included, such as detention.

<sup>17</sup> Forgiveness was reserved to the bishop: "*Otógale, Oh Señor todopoderoso, a través de Cristo, la participación en Tu Santo Espíritu para que tenga el poder para perdonar pecados de acuerdo a Tu precepto y Tu orden, y soltar toda atadura, cualquiera sea, de acuerdo al poder el cual Has otorgado a los Apóstoles*" (Cf. *Constitutione Apostolica VIII*, 5 p. i., 1. 1073.)

<sup>18</sup> Cf. *Sacr. Gelasianum*, n. 38.

Such it was the shock, *tota urbe romana spectante*, that she was immediately readmitted among the faithful<sup>19</sup>.

The sinner is included in the catechumens' group (*humilitas lugentium should impetrare misericordiam*). This again highlights the need for re-education of the sinner, who should restart the path of salvation. In addition, in order to control the spiritual life of the people, it existed the visit Diocesan, common since at least the 6th century. It was intended to check the health of the coetus fidelium that the Bishop has to care, and he used to do it with the inquisitorial process. It was not even a disciplinary visit, but it shows the future inquisitors' visits to extirpate the sinful action. They are not actions of the medieval times but respond to a behaviour used for centuries to take care of the souls<sup>20</sup>.

## 2.2 From the British Isles to the *proprio sacerdote*

After penance will gradually, under the influence of the practice of the British Isles, abandoned his public appearance and almost only to finally become extinct any solemn and public practice<sup>21</sup>.

So much so that in the year 589, the Third Council of Toledo warns that "in some churches of Spain men do penance for their sins, not according to the canons, but a reprehensible manner so that every time that they sin you ask for reconciliation to the priest"<sup>22</sup>. It is also said that "in order to end this execrable presumption, this holy council establishes that penance must be given by the canonical form of the ancients"<sup>23</sup>.

But the public practice will remain stable on the continent for several centuries, until the religious are sent to the British Isles to evangelize those distant lands. It is the birth of the penitential books. This sort of literature was produced alongside the secular law, with Germanic influence, and adopted many of the legal principles of the time, transferring them to a Christian context. Thus, the popular idea of Justice in Ireland during this period plays an important role in the formation of the penitential literature of

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<sup>19</sup> Cf. HIERONYMUS, Epistula 77, *ad Oceanum*, en PL, XXII, 748-752.

<sup>20</sup> Cf. GARCÍA Y GARCÍA, A., *Historia del Derecho Canónico*, cit. p. 370.

<sup>21</sup> It is also true that, from the V century, some voices calling for the privacy of penance ( Saint Leo the Great ) and repeated ( St. John Chrysostom ) rise The Chrysostom says: "*Si pecas una segunda vez, haz penitencia una segunda vez, y cuantas veces vuelvas a pecar, vuelve a mí y yo te curaré*" (Cf. SAN JUAN CRISÓSTOMO, «Homilía 61», en *Homilias sobre el evangelio de san Mateo* 2, Madrid 2007).

<sup>22</sup> Cf. *La colección canónica hispana. Concilios hispanos 5/2*, ed. F. RODRÍGUEZ BARBERO, Y G. MARTÍNEZ DÍEZ, Madrid 1992, c. 11.

<sup>23</sup> Cf. *Ibidem*

the local church, especially in the philosophy of punishment: a specific punishment for a specific sin<sup>24</sup>.

In this way, it is the birth of a particular Institution, legal and sacramental at the same time, commutation, which will be applied when it was impossible to carry out a penance whether by reason of illness, disability, age, etc...<sup>25</sup>. In addition, it is accepted the possibility of replacing the penance with the payment of an amount of money. It was usual for the people to accept this way to settle the sanctions imposed by the secular authorities, and it was received in some of the penitential books in the form of relaxation of penance in exchange of an economic payment. This irregular practices crossed the English channel and came to the continent, opening the door to a variety of abuses in the administration of penance making clear the necessity of a response by the Church.

Another problem is the question of the jurisdiction, a very common problem in the inquisitorial courts, that will cause several battles between religious and secular priests, who collide sometimes to administer the sacrament<sup>26</sup>. The Council of Paris, in 813, will prohibit administering to the monk the confession except to the monks of his own monastery.

Although the authority had already ruled on the matter, the penitential court had increasingly become a source of conflict between the secular clergy and religious orders. Apart from the need to resolve conflicts between secular and religious clergy, the ecclesiastical legislation also sought to regularize the administration of penance within the diocesan curia:

*“Sane quia inter cetera unum est, quod sanctam maxime perturbat Ecclesiam, falsa videlicet paenitentia, confratres nostros et presbyteros admonemus, ne falsis paenitentibus laicorum animas decipi et in infernum pertrahi patiantur. Falsam autem paenitentiam esse constat, cum spreto pluribus, de uno solo paenitentia agitur: aut cum sic agitur de uno, ut non discedatur ab alio. Unde scriptum est: 'Qui totam legem observaverit, offendat autem in uno, factus est omnium reus (Jac 2,10): scilicet quantum ad vitam aeternam. Sicut enim, si peccatis esset omnibus involutus, ita, si in uno tantum*

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<sup>24</sup> Cf. RANKIN, T., *Jurisdiction in the sacrament...*, cit. p. 11.

<sup>25</sup> Cf. *Ibidem*, p. 12.

<sup>26</sup> MCCARTNEY, M., «Faculties of Regular Confessors», en *Canon Law Studies* 280 (1949) pp. 12-13: “This in reality amounted to a local decree on the necessity of confessing to one's proper pastor, local legislation that was to be made universal almost four centuries later by the IV Lateran Council in 1215”.

*maneant, aeternae vitae ianuam non intrabit. Falsa etiam fit paenitentia cum paenitens ab officio vel curiali vel negotiali non recedit, quod sine peccato agi nulla ratione praevallet; aut si odium in corde gestetur, aut si offenso cuilibet non satisfiat, aut si offendentis offensus non indulgeat aut si arma quis contra iustitiam gerat”.*<sup>27</sup>

However, this process was slow, mainly because the turbulent years preceding the Fourth Lateran Council did not help at all to determine the jurisdiction of religious, secular missionaries and with the entry of preachers and inquisitors and the constant rumor of civil interference through particular priests<sup>28</sup>. With regard to preaching—the other system to cause the correction of sinful consciences—his importance, of course, is not a special feature of the Middle Ages, even the introduction of the exemplum as a means of evangelization. Apart from that was the style of Christ and the *Doctrina christiana* of St. Augustine says that the examples advantage than the convoluted words: *Plus docent exempla quam verba subtilia*<sup>29</sup>. But over the years she made this practice was lost; in fact, during the Middle Ages traditionally distinguished three stages: “una primera que se corresponde con la llamada Alta Edad Media y se caracteriza por una predicación destinada exclusivamente a los clérigos —ad clericos—; la Baja Edad Media, cuando se recupera una predicación popular —ad populum—; y un último periodo de transición entre ambas etapas, que se extendería desde el siglo X hasta el XIII aproximadamente”<sup>30</sup>.

### 3. EDUCATION, SACRAMENTS AND INQUISITION: THE IV LATERAN COUNCIL

This way, the imminent change of Millennium went before by fights in the Diocesan curia, especially between the medieval Archdeacon and the diocesan Bishop. These

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<sup>27</sup> En el II concilio de Letrán (1139) se reprendrá el abuso que se había introducido en el sacramento de la Penitencia (can. 22): (Cf. «Concilium Lateranense II», en DS 717)

<sup>28</sup> Cf. BELDA INIESTA, J., *La donatio y los dictatus papae como hitos de las relaciones Iglesia-Estado*, Valencia 2012. p. 125

<sup>29</sup> F. BRAVO, «Arte de enseñar, arte de contar. En torno al exemplum medieval», en *La enseñanza en la Edad Media. X Semana de Estudios Medievales*, Nájera 1999

(<http://www.vallenajerilla.com/berceo/bravo/exemplum.htm>, december 3, 2012): “A los nombres de San Agustín y de San Gregorio Magno cabe añadir, entre los primeros y más destacados teóricos de la predicación, los de Rabano Mauro (De institutione clericorum - 819-), Guillermo de Nogent (Liber quo ordine sermo fieri debet -1084-) y, aunque más moderno, Alain de Lille (Summa de arte praedicatoria - hacia 1199-)”

<sup>30</sup> Cf. B. MARCOTEGUI BARBER, «Ad eruditionem simplicitum. La transmisión del mensaje evangélico a la sociedad bajomedieval», en *Medievalismo. Boletín de la Sociedad Española de Estudios Medievales*, 15 (2005) pp. 9-38.

(<http://www.vallenajerilla.com/berceo/marcotegui/transmisionmensajevangelico.htm>, December 3, 2012).

battles about the penance's administration are another example why the Church needed a new and definitive reform, whose rotting had reached all levels of the institution. Despite the impetus of the Gregorian reform, the new rules failed to sink deeply, and issues like sexual morality or the breaking of celibacy, among others, prove the need for an urgent renewal which must reach all levels, and which must be carried out organically<sup>31</sup>.

In addition, as I have said, the passage of the public penance to private penance not only supposed the loss of the public character of the punishment, but also that the Church lost the control of behavior, because its repression would depend now only of the personal need for forgiveness of each faithful. Under these new circumstances, it arose up heterodox forms of profess religion –heresies in modern sense- which infected the population, and many sexual behavior contrary to Catholic morality extended among the population, which already should not purge their sins in public. This situation pushed the Church to face a new situation: to cause voluntary contrition of the penitent. The Church needs to recuperate the lost control over the conscience, so the intention of Innocent Pope when he convened the Council was “*to uproot vices and plant virtues, to correct excesses and reform morals, to eliminate heresies and strengthen the faith*”<sup>32</sup>.

From my point of view, three will be the areas where the Church focuses the fight to control free conscience, corresponding with its triple function, and each one corresponding to the three levels which impacts the sinful attitude: a reform of the sinful preventing, preaching to teach the truth and stir the souls (*munus docendi*); a sacramental reform, with important changes in relation to the confession in order to restore the communion those who have moved away (*munus santificandi*) and, finally, a judicial reform (*munus regendi*), where the authority tries to force the contrition of the sinner.

As I said, any ecclesiastical rule is directed to organize the life of the Church. An essential part of this stability is the cult that has the sacraments as liturgical expression. The liturgy is praxis, the external way to celebrate an internal common faith. Logically, if we desiderate to celebrate the same creed in the same mod, rules to regulate it are needed. Innocent understood this well and continued the work of his predecessors in

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<sup>31</sup> BELDA INIESTA, J., «Excommunicamus et anathematisamus. Predicación, Confesión e Inquisición como respuesta a la herejía medieval (1184-1233)» en *Anuario de Derecho Canónico* 2 (2013), pp. 97-128

<sup>32</sup> Cf. RANKIN, T., *Jurisdiction in the sacrament...*, cit. p. 12.

placing the law at the service of the Church's reform<sup>33</sup> the very purpose of the Church's disciplinary rules are precisely to organise and direct the Church « *to divine worship, peace, and preserving Christian justice, at last to reach the eternal happiness*», and the law on the sacraments lies at the very heart of the canonical discipline. Moreover, as liturgical expressions of the unity found in the Church's *depositum fidei*, only fitting that they be regulated with a view to strengthening that unity.

Again, we see as sacrament, preaching and fight against the sinful attitudes are sides of a same Prism, because if you get educated in the faith of the people<sup>34</sup> and the way of celebrate it, there will be many advances in order to suppress the sin, as well as in the prevention of the emergence of new diversions, both doctrinal and structural<sup>35</sup>.

### 3.1 The confession's Reform

In this sense, the 21 constitution of IV Lateran Council will be a fundamental change of the penitential policy. With the Innocent's reform the confession became obligatory, at least once a year. This was obligation for everybody: both men or women who have achieved the age of reason. And they must do it with the own priest:

*“Omnis utriusque sexus fidelis, postquam ad annos discretionis pervenerit, omnia sua solus peccata confiteatur fideliter, saltem semel in anno proprio sacerdoti, et iniunctam sibi poenitentiam studeat pro viribus adimplere”*<sup>36</sup>

The the obligatory character of the confession was one of the fundamental point of the reform. One of the fundamental points of the conciliar reform will be the obligatory nature of the confession. By the Decree the fourth Lateran Council urges all the baptized who have reached the age of reason, both men or women, to confess their sins at least once a year with their own priest, at least once a year and strive to fulfill the penance enjoined.

While the practice of frequent confession had been well established under the influence of Irish penitentials<sup>37</sup> the supreme authority of the council had not pronounced yet<sup>38</sup>. It must be seen here how, what was a local decision before, is raised to a universal norm by the competent authority: *“By means of this action [Decree promulgation] the*

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<sup>33</sup> Cf. INOCENTIUS III, *De Sacro Altaris Mysterio Libri VI, S.I.*, Sylvæ-Ducum 1846.

<sup>34</sup> Cf. «Concilium Lateranense IV, const. 10 y 11», In *COD*, Bologna 1973, p. 239-240.

<sup>35</sup> *Ivi.* const. 7. p. 237

<sup>36</sup> «Concilium Lateranense IV, const. 21», en *COD*, p. 245

<sup>37</sup> Cf. RANKIN, T., *Jurisdiction in the sacrament...*, cit. p. 16.

<sup>38</sup> *Ibidem*

*Council did not established new rights and did not impose any new obligation, but it gave an ecumenical sanction and a universal character to an already existent discipline*<sup>39</sup>.

The reference to the term itself implies a clear delimitation of the priest's jurisdiction. Confession, even though not public already, will be done with the priest who, given the situation and way of living of the moment, knows us thoroughly. This means that he is perfectly conscious of the existence of some type of public sin. At the same time, it implies the perfect link with those who, up to now, have the authority to resolve sins<sup>40</sup>. As we have said before, during the first centuries it is an activity exclusively reserved for the bishop, but the fact of clearly stating the jurisdiction of the confessor means framing the territorial extension inside the terms of the jurisdiction of the community pastor. The importance of the penitential jurisdiction originated from the decree could be better understood through the perspective of the unique exception to the requirement itself. Here we talk about the clause, *"unless he [the adequate priest] has been granted permission to confess another one"*. Without such authorization, the canon says, the other priest *"does not tie or untie"*<sup>41</sup>. Therefore, we find a casual relation between the permission of the adequate priest and the validity of the sacramental absolution given by another one: *Si quis autem alieno sacerdote voluerit iusta de causa sua confiteri peccata, licentiam prius postulet et obtineat un sacerdote proprio, cum aliter ille ipse possit no solvere vel ligare*. This concession of permission, far from being a mere formality to be observed, establishes the nullity of the absolution (*no possit solvere*)<sup>42</sup>

### **3.2 The domain of consciences and the triple mission of the Church.**

In addition, the lines that characterize the institution of the Inquisition and its mode of proceeding were published by this Council. It ruled that the investigations will be carried out in parishes during the diocesan visit, the legitimacy of the process' opening without the suspect was been accused by anyone, the possible penalties and sanctions imposed during the process and at the end of it, and sending to secular justice to apply the established punishment . This, with the obligation of annual confession, can be interpreted as two ways of addressing the spiritual health of the people of God: keeping

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<sup>39</sup> Cf. *Ibidem*

<sup>40</sup> BELDA INIESTA, J., «Excommunicamus et anathematisamus. ...» cit. p. 105

<sup>41</sup> Cf. RANKIN, T., *Jurisdiction in the sacrament...*, cit. p. 17

<sup>42</sup> Cf. *Ibidem*, p. 17

clean the soul, and if this interior repentance was not true because sin has led him to deny their faith, regulate the way in which the human resources can force it. In addition, the same conciliar text urges bishops to take care of the people education. The way in which the prelates will care the instruction of the people promotes the homily renovation. The primordial contribution to it was the exempla that appear on sermons and which were reintroduced by the new orders, preachers and mendicants, who were fundamental tools to carry on the reform. They visit the village in temporal missions, and they prepared the terrain to do growing the papal faith, removing sinful attitudes and correcting the local clergy. Again, we see here how the three aspects that we said converge. In fact, not long after, the preachers will become the papal inquisitors.<sup>43</sup>

If we observe the phases of the process, it is easy to recognize the triple ecclesial actuation. Once the Inquisitor was arrived on a place, he brought together in the public square to all the habitants of the area. With exhortations, He invited to anyone that knew himself guilty of a crime against the faith, however small that was foul, to submit to his authority and confess it voluntary. Usually the time for the voluntary confession of sins against the faith ranged from fifteen days to a month. Those that were been repented during this "time of grace" *-tempus gratiae sive principalium-* and were been confessed their sins unknown for the people was obligated to carry on a secret penance.<sup>44</sup> Here he returns to see that the main goal is the conversion of the sinner, like we are told by the biblical expression: "*Si autem impius egerit paenitentiam ab omnibus peccatis suis, quae operatus est, et custodierit universa praecepta mea et fecerit iudicium et iustitiam, vita vivet, non morietur*" (Ez 18, 21).

After the time of grace it was promulgated an edict whereby anyone who knew the existence of suspicious or sinful attitudes had an obligation to report it to the authorities (*diffamatio or infamy*)<sup>45</sup>. The accused were cited through the priest of the village. However, not only those who had confessed the profession of sinful doctrines were the only ones who came under the jurisdiction of the Inquisition, because while was the infamy that indicated who could be condemned, in fact all those suspected of unorthodox conduct fell under the authority of this Court. When the accused was cited, if they refused to submit to the authority of the Court, could be judged as guilty of

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<sup>43</sup> *Ille humani generis*, 1232. (Cf. SÁNCHEZ HERRERO, J., «Los orígenes de la Inquisición medieval» *cit.* p. 29).

<sup>44</sup> Cf. SÁNCHEZ HERRERO, J., «Los orígenes de la Inquisición medieval» *cit.* p. 36

<sup>45</sup> BELDA INIESTA, J., «Excommunicamus et anathematisamus...» p. 118

contempt, and ordering his arrest. Done this, the defendant was informed of the charges against them, and the court demanded him the oath on the Holy Gospels that oblige them to say all the truth, with the famous formulation *se ut principalis, quam de aliis vivis et mortuis, ut testis*<sup>46</sup>.

At first, the prosecution was exercised by the complainants, but because of the terrible complexities of these actions they abandoned this legal practice. However, it did not imply that any indictment was accepted; in principle, the Inquisitor should rely only on discrete people, avoided clashes between witnesses and defendants, and it is not supported, at least at first, heretics to accuse other heretics, though this practice was also abandoned because, logically, it was normal to those professing the same doctrine know the secret practices of the others. Finally, it must be stressed that it avoided personal clashes outside causes, i.e. habitual enemies were not supported as witnesses. From here, all the activity of the tribunal was intended to get the confession of the accused. All types of media could be used to obtain it, in order to overcome the resistance of the defendant. Traditionally, what has been become known in this part of the process is the application of various means of torture, in faith processes since Pope Innocent IV. We have to recall that the practice of torture, not as punishment but as a means to obtain a confession from the accused, was common in laical law, just as it had been commonly used as a means of asceticism and repression of bad behavior in the Christian tradition.

However, the need for confession, the acceptance of own sinful condition, has some different connotations in the Christian world: "*you convert us, Lord, and we will develop*" (Lm 5.21). It is not just the certainty of guilt and, therefore, the merit by the defendant of the penalty that will be imposed him, but the genuine contrition needs precisely such recognition of own misery and own error, and it returns to man to the place in which Christ rescues him of the lost path.

Thus, the Church is aware that sin is the root of all human failures<sup>47</sup>, that it perverts the nature of man and damages it severely, but not to annihilate it<sup>48</sup>. Precisely for this

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<sup>46</sup> Cf. SÁNCHEZ HERRERO, J., «*Los orígenes de la Inquisición medieval*» cit. p. 37.

<sup>47</sup> "*Et cum venerit ille, arguet mundum de peccato et de iustitia et de iudicio: de peccato quidem, quia non credunt in me*" (Io. 16, 8-9)

<sup>48</sup> CCE n. 1426: "Conversio ad Christum, nova in Baptismo nativitas, donum Spiritus Sancti, corpus et sanguis Christi tamquam nutrimentum recepta nos effecerunt sanctos et immaculatos «in conspectu Eius» (Eph 1,4), sicut Ecclesia ipsa, Christi Sponsa, est coram Eo «sancta et immaculata» (Eph 5,27). Tamen vita nova recepta in initiatione christiana fragilitatem et debilitatem naturae humanae non suppressit, neque inclinationem ad peccatum quam traditio concupiscentiam appellat, quae manet in baptizatis ut ipsi suas probationes subeant in vitae christianae proelio, Christi gratia adiuti. Hoc proelium est illud

reason, because the fact of human nature and freedom have been injured but not killed, is necessary the instruction regarding the bad attitude, mercy and the possibility of amendment. Also, it is necessary the punishment in order to purge the sinful. Repentance<sup>49</sup>, grace that is obtained by means of the blood of Christ, is root for the conversion. And it is precisely this confrontation with Christ through the preaching that makes us discover our mistake, first step for repentance and forgiveness.

#### 4. CONCLUSION

This ending, this noble aim, unfortunately, which has been persecuted by the Church since its foundation, has not always been achieved. The presence within the Church itself of groups that will use interested these new practices, as well as the unstable relations with the secular power will end by increasing the rift between Orthodox and heterodox. For some time the objective was achieved, and there was a renewal of the life of faith, especially with the emergence of new forms of consecrated life, but the freedom of conscience and of interpretation of the faith had already begun to grow. From the point of view of faith and the sacraments, this separation will conclude with the Protestant Reformation, which will result in the Grand Council of the modern age. From the point of view of education, until the establishment of seminars, also with the Council of Trent, only religious orders have usually some instructed clerics. Finally, in relation to the part legal, the Inquisition, born to protect faith *-favor fidei-*, will be used usually by all the parties involved for their own benefit: the civil power to complete its domination over the population, the population for their personal revenge and the

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conversionis propter sanctitatem et vitam aeternam ad quam Dominus nos incessanter vocat” (Cf. DS 1515)”.

<sup>49</sup> Cf. SANCTI AMBROSII MEDIOLANENSIS, «Epistolae in duas clases distributae», in PL 16, 1164: “(...) Ecclesia autem et aquam habet, et lacrymas habet: aquam baptismatis, lacrymas poenitentiae (...)” St. John Chrysostom also includes reconciliation seems like a kind of new baptism, at 10th catechesis. (Cf. Juan Crisóstomo, *Las catequesis bautismales*, ed. Ceresa-Gastaldo, A.- Velasco, A., Madrid 1988<sup>2</sup>, p. 185. [JEAN CHRYSOSTOME, *Huit catéchèses baptismales inédites* (S. Chr. 50bis), ed. A. WENGER, Paris 1970, p. 226.] ‘Like we are told by the Gelasianum “Adest, o uenerabilis pontifex, tempus acceptum, dies propitiationis diuine et salutis humanae, qua mors interitum et uita accepit aeterna principium, quando in uinia domini sabaoth sic nouorum plantatio facienda est, ut purgetur et curatio uetustatis. Quamuis enim a diuitiis bonitatis et pietatis Dei nihil temporis uacet, nunc tamen et largi[t]or est per indulgentiam remissio peccatorum et cupiosior per gratiam adsumptio renascentum. Augemur regenerandis, crescimus reuersis. Lauant aquae, lauant lacrimae. Inde gaudium de adsumptione uocatorum, hinc laetitia de absolute paenitentium. (...)” (cf. *Liber Sacramentorum Romanae Aeclesiae ordinis anni circuli*, (*Sacramentarium Gelasianum*), ed. CUNIBERT, L., MOHLBERG, EIZENHÖFER, L., SIFFRIN, P., Roma 1968, n. 353 (= *Sacr. Gelasianum*). CCE n. 1429 and GANDÍA BARBER, J. D., *La cuaresma: camino de renovación y salvación. Hermenéutica catecumenal de las lecturas veterotestamentarias de los domingos de cuaresma*, Murcia 2012, p. 166-167.

religious power -of any creed, because it was present in all Christian churches- to suppress the faith that it was obligated to defend.

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