

*notes du f.68v* who connects the text with the *Moralium dogma philosophorum* and Jean de la Rochelle's *Tractatus de divisione multiplici potentiarum animae*. Two authors, Amandine Postec and Carlo Delcorno, highlight the presence of borrowings from the writings of St Anthony of Padua. Folio 16, line 12 begins with a citation to *Beatus Antonius ordinis minorum fratrum*. Six extracts from his sermons have been identified between folios 16r and 17v. St Anthony's influence has been located on other folios. This manuscript is an early manifestation of the dissemination of St Anthony's writings from northern Italy and Umbria. This rich collection of studies will be warmly welcomed by Franciscan scholars and students of medieval hagiography. It is a pity that there is no index to the volume.

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*Marriage litigation in the Western Church, 1215–1517*. By Wolfgang P. Müller. Pp. viii + 270 incl. 3 figs, 3 tables and 1 map. Cambridge–New York: Cambridge University Press, 2021. £75. 978 1 108 84542 7

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Having read Charles Donahue Jr's extensive 672-page *magnum opus*, *Law, marriage, and society in the later Middle Ages: arguments about marriage in five courts* (Cambridge 2007), I was initially unsure why Wolfgang P. Müller's recent study on marriage litigation was necessary. What new would this relatively slight book (217 pages without appendices, bibliographies etc.) bring to the much-researched field?

My preliminary doubts were unjustified. Building on five decades of research, Müller's compact book provides the reader with a novel take on the marriage-related activities of Western medieval ecclesiastical jurisdictions.

Starting with the claim (p. vii) that medieval 'ecclesiastical judges resorted to the *ordo* [*iudiciarius* or the Romano-canonical process] only by way of exception' when dealing with the laity, Müller criticises current research for failing to include all jurisdictions and matrimonial cases in the analysis of litigation patterns. This omission he himself has remedied. He analyses all marriage-related ecclesiastical court cases, litigation proper, disciplinary or 'penitential' alike, regardless whether initiated by parties or by ecclesiastical officials based on rumours.

The book introduces three threads (pp. 3–9). According to Müller, certain German ecclesiastical courts heard annually even up to a hundred times more cases than some Italian or Aragonese ones. Moreover, he argues that the relative share of what he calls 'judicial' and 'penitential' marriage cases varied considerably. In Italy, the latter hardly existed, while they abounded north of the Alps. Variations of marriage customs constitute the third factor: Southern Europeans contracted marriage in front of notaries documenting the union, while the rest of Europe did not follow similar practices. The lack of 'certification' in Central Europe and the practice of deciding child support cases in church courts in the German lands contributed to different litigation patterns.

After the introduction, the book is divided into two parts. Müller has chosen to juxtapose Central Europe with Southern Europe, calling the former the 'North' *vis-à-vis* the 'South'. As the Nordic countries are often overlooked in medieval

European history and usually partially cut out in maps of medieval Europe (this also applies to the map on p. 5), this choice can be criticised as perpetuating dated and old-fashioned narratives on Western medieval Europe and legal history.

The main chapters analyse and compare these chosen 'Northern' and Southern jurisdictions: Xanten and Basel (ch. i), Paris, Flanders and southern Germany (ch. ii), and England (ch. iii), 'Italy' or rather Venice and Lucca (ch. iv) and Aragon/Catalonia (ch. v). Unlike the five first main geographically defined chapters, the sixth chapter stands out by its thematic approach, concentrating on concubinage or 'domestic partnership' (*barraganía; amancebamiento*) and notarial practices in the Iberian Peninsula. It allows Müller to investigate more deeply the legal and social culture(s) of the region. He addresses more thoroughly questions relating to the quality and quantity of matrimonial cases, relations between secular and ecclesiastical norms and jurisdictions or different boundaries between sin and crime. This approach could also have been extended to other regions making for more analytical research.

The three-page conclusion (pp. 215–17) feels unnecessarily short considering the length of the book and the lack of short summaries containing the main findings and comparative observations at the end of each chapter. These would have highlighted the comparison, interesting findings and analyses that busy readers may otherwise pass unnoticed.

I can find at least three excellent reasons why medievalists, canonists and comparatists should read Müller's book. First, the author delivers what he promises: a novel and fresh outlook on marriage proceedings in medieval ecclesiastical courts. Second, the research is solidly based on archival material. Third, its wide comparative perspective provides new insights into European marriage practices, ecclesiastical courts and legal cultures.

Most studies, like Richard H. Helmholz's classical *Marriage litigation in medieval England* (Cambridge 1974), focus on a particular country or jurisdiction, while Donahue's book concentrates on five (England, Northern France and the Low Countries). Müller has analysed seventeen late medieval church courts in Central and Southern Europe. Four of these tribunals are in England, one in France, two in the Low Countries, four in German lands, two in Italy and four in present-day Spain. A remarkable achievement, which gives the book importance.

Yet, the book fails to give sufficient attention to certain issues. Considering the centrality of the categorisation of 'judicial' and 'penitential' marriage processes, these concepts ought to have been properly defined at the beginning. Which cases did Müller consider 'penitential proceedings'? Were these inspired by rumours of sin? Apparently not, as some were *ex officio* investigations by officials while others had plaintiffs like other marriage litigation. Did the type and sufficiency of evidence form the dividing line? 'Penitential cases' could include 'evidentiary deficiencies' (p. 9) and 'characteristically took on mere hearsay and unilateral assertions unsupported by legal evidence' (p. 8). Were oaths taken by the parties the criterion? Without clear definitions, I remain unconvinced by 'penitential marriage proceeding' as a catch-all category for cases failing to 'me[e]t juristic criteria' (p. 11), i.e. follow ordinary Romano-canonical procedure.

The book raises more questions than it provides answers. Visitation practices, visitation frequency and aims also varied, suggesting a stereotypical laxist South and

controlling ‘North’. Müller makes half-hearted references to feudal practices, but convincing explanations are lacking. Might legal traditions of proof help explain the divide into ‘judicial’ and ‘penitential’ regions? Is it a coincidence that Roman law influenced the ‘Southern’ regions more thoroughly – partly through notarial practices? Oath-helpers were alien to classical Roman law while being standard features in many ‘Germanic’ legal cultures. To exaggerate slightly, learned Romano-canonical procedural law had been born where literacy and document-production were normal. The Church then imported it to and enforced it in regions where different modes of procedure and oral evidence predominated, mixing the two.

With all its merits, *Marriage litigation* answers ‘what’ but not ‘why’. A thorough analysis of Western ecclesiastical litigation patterns would include rigorous comparisons of secular/ecclesiastical jurisdictional boundaries, procedural practices and social structures among other factors. This future classic will doubtless inspire much new research in the decades to come.

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*Thomae Eboracensis Sapientiale, liber III, cap. 1–0*. Edited by Antonio Punzi and Fiorella Rutucci. (Unione Accademica Nazionale. Corpus Philosophorum Medii Aevi Testi e Studi xxv.) Pp. xxxviii + 318. Florence: Sismel, Edizioni del Galluzzo, 2020. €56 (paper). 978 88 8450 836 2  
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Thomas of York was a gifted theologian of the second generation at the Oxford Greyfriars. He seems to have entered the order in his native York at the city’s Greyfriars adjacent to the river Ouse in the 1230s and then advanced to the custodial school, where he had a thorough grounding in the liberal arts. He may have reached Oxford by 1245, when he was asked to dispatch some manuscripts to Adam Marsh, who had accompanied Robert Grosseteste, bishop of Lincoln, to Lyon in preparation for the ecumenical council of that year. He was described as the ‘most obedient servant’ of Bishop Grosseteste and advised William of Nottingham, the minister provincial, on matters pertaining to the English province of the Franciscan order. During this period he sat at the feet of Adam Marsh and Eustace of Normanville, the first and third regent masters of Oxford. In 1251 there was speculation that he might be assigned as the lector to another friary. Adam, however, intervened to dissuade William of Nottingham, urging that Thomas should remain at Oxford to prepare himself for the office of regent master. When Thomas was nominated as the fourth regent master in late 1252, the University of Oxford pointed out that he had not ruled in the faculty of arts, whereas the three previous incumbents – Adam Marsh, Ralph of Corbridge and Eustace of Normanville – had joined the order as Masters of Arts. Despite this omission, the quality of Thomas’s studies was recognised. Indeed, the university had no qualms about his level of preparation ‘on account of his distinguished conduct, his intellectual gifts, and his proven learning, which commend him to many and great persons’. The university issued a grace to permit Thomas to become the next regent master. Little is known about his teaching