

CLERICUS RECIDIVANS AD CONCUBINATUM

DIVINAE MISERICORDIAE DICITUR IRRISOR.

BRIEF REMARKS ON THE ‘RELAPSE’ INTO
ECCLESIASTICAL CONCUBINAGE LEADING UP TO THE
COUNCIL OF TRENT

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Stefania T. Salvi
Università degli Studi di Milano
stefania.salvi@unimi.it

Abstract: In the austere times of the Counter-Reformation, the French jurist Bermond Choveron tackled the specific topic of “*recidivatio clerici concubinarum*” in his treatise on public concubinage, wherein he summarized the seven inherent *pericula* that clerics would face should they ‘relapse’ into this grave sin. His reference to the concept of *miseriordia* is a chance to analyze, albeit briefly, some aspects of the canonical doctrine that developed around this issue over the centuries, with a specific focus on divine mercy and forgiveness. Indeed, according to this 16th-century treatise, a ‘recidivist’ concubinary cleric who had already been admonished several times before deserved neither mercy nor forgiveness.

Key words: cleric, concubinage, mercy, *recidivatio*, Council of Trent.

Riassunto: Nell’austero clima della Controriforma il giurista francese Bermond Choveron affrontava lo specifico tema della “*recidivatio clerici concubinarum*”, sintetizzando, nel suo trattato sul pubblico concubinato, i sette *pericula* insiti nella ‘ricaduta’ in questo grave peccato. Il richiamo al concetto di *miseriordia* offre lo spunto per analizzare, in modo necessariamente sommario, alcuni aspetti della disciplina canonistica, sviluppatasi in materia nel corso dei secoli, attraverso le coordinate della divina *miseriordia* e del perdono, di cui il chierico concubinario, più volte ammonito e ‘recidivo’, non pare degno secondo il menzionato trattato cinquecentesco.

Parole chiave: clero, concubinato, *miseriordia*, *recidivatio*, Concilio di Trento.

1. INTRODUCTION.

These brief remarks aim to examine some aspects of canonical doctrine regarding the *clericus recidivans ad concubinatum*. Reference shall be made to post-Tridentine treatises, with a focus on divine mercy— meaning the pity and kindness shown by God¹—as well as on forgiveness (or the absence of forgiveness) when it came to priests who relapsed² into the grave sin of nicolaitism³.

¹ For a recent examination of the fascinating and complex subject that is the relationship between justice and mercy, see the collection of works published in *Justice et Miséricorde. Discours et pratiques dans l'Occident médiéval*, Textes réunis par VINCENT, C., Limoges 2015.

² Cf. GENTILE, A., *Recidiva (recidività)*, in *Enciclopedia cattolica*, vol. X, Roma 1953, p. 606.

³ There is a wide range of historiographical sources on the age-old problem of clerical concubinage, and it is impossible to mention them all here. For a general overview, see the following: LEA, H.C., *Storia del celibato ecclesiastico nella chiesa cristiana*, first and only Italian translation of the third edition in English, revised by Pia Cremonini, vol. 2, Mendrisio 1911; VEGGIAN, T., *Il celibato ecclesiastico. Studio storico-giuridico-sociale*, Vicenza 1914; BILLANOVICH, A., *Sacerdozio e Celibato*, Treviso 1925; BRUGI, B., «Concubinato (civile - Storia del diritto)», in *Il Digesto Italiano*, vol. VIII parte 1, Torino 1929, pp. 468-526; JOMBART, É., «Concubinage», in *Dictionnaire de droit canonique*, NAZ, R. (ed.), vol. 3, Paris 1942, especially pp. 1516-1522; ID., *Célibat des clercs (droit occidental)*, ivi, pp. 132-145; ID., *Chasteté*, ivi, pp. 665-675; CARON, P.G., «Concubinato (diritto canonico)», in *Novissimo Digesto Italiano*, vol. 3, Torino 1959, pp. 1059-1063; CIPROTTI, P., «Concubinato (dir. can.)», in *Enciclopedia del diritto*, vol. 8, Milano 1961, pp. 695-697; NARDI, C., «Cenni storici del concubinato», in *Archivio Penale III-IV* (1963), pp. 3-18; GAUDEMET, J., «Gratien et le celibat ecclésiastique», in *Studia Gratiana* 13 (1967), pp. 341-369, also in GAUDEMET, J., *La société ecclésiastique dans l'Occident médiéval*, London 1980, IV; SCHILLEBEECKX, E., *Il celibato del ministero ecclesiastico. Riflessione critica*, trad. it., Roma 1968; GRYSO, R., *Les origines du célibat ecclésiastique du premier au septième siècle*, Gembloux 1970; COPPENS, J. (ed.), *Sacerdoce et célibat. Études historiques et théologiques*, Gembloux 1971; FORNASARI, G., *Celibato sacerdotale e «autoscienza» ecclesiale. Per la storia della «nicolaitica haeresis» nell'Occidente Medievale*, Trieste 1981; CHOLI, R., «The lex continentiae and the Impediment of Orders», in *Studia canonica* 21 (1987), pp. 391-418; ID., *Clerical Celibacy in East and West*, Leominster 1989; BOTTA, R., «Adulterio e concubinato (dir. can.)», in *Enciclopedia giuridica*, vol. 1, Roma 1988, pp. 1-3; STICKLER, A. 1994. *Il celibato ecclesiastico. La sua storia e i suoi fondamenti teologici*, Città del Vaticano 1994; FRASSETTO, M. (ed.), *Medieval Purity and Piety. Essays on Medieval Clerical Celibacy and Religious Reform*, New York and London 1998; ABBOTT, E., *A History of Celibacy*, Cambridge 2001, pp. 99-113; BONIVENTO, C., *Il celibato sacerdotale. Istituzione ecclesiastica o tradizione apostolica? Un vescovo ai suoi diaconi e sacerdoti*, Milano 2007; CIPRESSA, S. (ed.), *Celibato e sacerdozio*, Roma 2008; ROMEO, G., *Amori proibiti. I concubini tra Chiesa e Inquisizione. Napoli 1563-1656*, Roma-Bari 2008; COCHINI, C., *Origini apostoliche del celibato sacerdotale*, Prefazione di Heid, Stefan, trad. it., Roma 2011; JIMENO ARANGUREN, R., «Concubinato, matrimonio y adulterio de los clérigos: notas sobre la regulación jurídica y praxis en la Navarra medieval», in *Anuario de Historia del Derecho Español* 81 (2011), pp. 543-574; MORGÀ IRUZUBIETA, C., «Concubinatio [clérigo]», in *Diccionario general de derecho canónico*, OTADUY, J., VIANA, A., SEDANO, J. (eds.), vol. 2, Navarra 2012, pp. 451-452; THIBODEAUX, J., *The Manly Priest. Clerical Celibacy, Masculinity, and Reform in England and Normandy, 1066-1300*, Philadelphia 2015; HUNTER, D.G., «Married Clergy in Eastern and Western Christianity», in *A Companion to Priesthood*

Although there is early evidence of the obligation to chastity for clerics, concubinary practices during the Middle Ages and early modern period were anything but infrequent among ecclesiastical ranks. This brief foray into the Middle Ages shall seek to demonstrate how, despite condemning cohabitation with women on the part of priests on several occasions, canon law tended towards forgiveness of the sin *ratione misericordiae* in some cases.

The Church's fight against concubinary clerics—considered public sinners—underwent a notable change during the age of the Counter-Reformation. The Council of Trent dictated severe rules on lay and clerical concubinage, with the aim being twofold: on the one hand, to promote the establishment of a new form of marriage, wherein ecclesiastical institutions would now play a crucial role; and on the other hand, to improve the moral conduct of the clergy. Indeed, the Church's rigid sexual ethic was often ignored and sometimes bitterly criticized, above all by the secular clergy. Thus, in the last decades of the 1500s, bishops and inquisitors dedicated themselves to 'reforming' sexuality for both clerics and laymen.

In keeping with the spirit of the Counter-Reformation, the ecclesiastical authorities became even more critical of both the cohabitation of priests *more uxorio* and their de facto families. Thus, the warning for 'recidivists'—meaning those who relapsed into this sin of the flesh over and over again—became that much sterner. As a result, the canonical criteria of *misericordia* ceased to be a possible lifeline for the *clericus recidivans*, as demonstrated in the treatise on public concubinage penned by the French jurist Bermond Choveron, which shall be examined below.

and Holy Orders in the Middle Ages PETERS, G. and COLT ANDERSON, C. (eds.), Leiden-Boston 2016, pp. 96-139.

2. THE MIDDLE AGES: RIGOR OR MERCY?

An examination of the sources of medieval canon law on clerical concubinage⁴ reveals a generally uniform doctrinal approach that rested on solid theoretical bases and responded to deep-rooted needs of both a theological and economic nature⁵.

Over the course of the early centuries AD, more and more specific ecclesiastical legislation emerged with the aim of regulating sacerdotal celibacy. For clerics *in sacris*, it was not only forbidden to marry, but also to live with any women who were not close relatives⁶.

The *Concilium Nicaenum II* (787) confirmed this ban on clerics from keeping a woman—whether free or slave—in episcopal palaces or monasteries, but it also provided for the case of a ‘recidivist’ concubinary cleric, who was to be punished by deposition⁷.

Despite the harsh legislation introduced on the matter by Justinian⁸, nicolaitism had been practiced among ecclesiastics since late antiquity, becoming

⁴ “*Concubinage*” is not actually the appropriate term when referring to extramarital cohabitation on the part of ecclesiastics. See IACOBUS MENOCHIUS, *Consiliorum sive responsorum D. Iacobi Menochii Papiensis*, vol. II, Francofurti, Sumtibus Haeredum Andreae Wecheli et Ioan. Gymnici, 1594, Consilium 174, n. 3, fol. 196r. For a historiographical perspective, see TAMASSIA, N., *La famiglia italiana nei secoli decimoquinto e decimosesto*. Milano-Palermo-Napoli 1910, p. 220; KARRAS, R., «Marriage, Concubinage and the Law», in *Law and the Illicit in Medieval Europe* KARRAS, R., KAYE, J. and MATTER, A.E. (eds.), Philadelphia 2008, pp. 117-132, especially p. 120; COSSAR, R., «Clerical “Concubines” in Northern Italy during the Fourteenth Century», in *Journal of Women’s History* 23-1 (2011), pp. 111-132, especially pp. 112-113.

⁵ Cf. BRUNDAGE, J.A., *Law, Sex, and Christian Society in Medieval Europe*, Chicago 1987, especially pp. 214-223 and *passim*.

⁶ On the early centuries, see HUNTER, D.G., «Married Clergy in Eastern and Western Christianity», in *A Companion to Priesthood and Holy Orders in the Middle Ages* PETERS, G. and COLT ANDERSON, C. (eds.), Leiden-Boston 2016, pp. 96-139.

⁷ Canon 18, entitled *Quod non oportet feminas habitare in episcopoiis, vel virorum monasteriis*, provided that “*Quisquis ergo ancillam vel liberam in episcopio possidere claruerit, vel in monasterio ad opus ministerii alicuius, increpetur: si autem permanserit, deponatur*” (*Concilium Nicaenum II*, can. 18, in *Conciliorum Oecumenicorum Decreta*, Bologna 1991, p. 152).

⁸ C. 1.3.19; Nov. 123.29. Furthermore, in the year 528 Justinian established that anyone who had children could not become a bishop (C. 1.3.1.41, § 4). For a historiographical perspective, see POGGIASPALLA, F., *La vita comune del clero. Dalle origini alla riforma gregoriana*, Roma 1968, pp. 24-25.

more widespread in the post-Carolingian period. The first forceful reaction to this situation could be seen around the year 1000, above all through some conciliar decrees.

The violent battle fought by the reformers reached its peak during the papacy of Gregory VII (1073-1085)⁹, and from a legislative standpoint at least, it was a battle that was won. The age-old dispute could be considered resolved with the affirmation of a principle that would be further reinforced by the Second Lateran Council (1139): access to major orders required continence.

The difficulties in enforcing clerical celibacy did not cease right after the Gregorian reform; on the contrary, they continued for centuries. Nonetheless, at that point clerics were already firmly oriented towards renouncing marriage, as the reform had started a gradual process of distinguishing between secular and clerical identities. From this moment onward, marriage was equal to fornication for an ordained clergyman, and such a comparison was specifically used in celibacy laws starting at the end of the eleventh century¹⁰.

The concept of divine mercy was frequently used in the sources of this period as 'support' for humankind's fragile nature. Landulf Senior (11th-12th century) wrote as much in his *Historia mediolanensis* on the topic of clerical marriage, which the author thought advisable, in keeping with the word of Paul: "But if they cannot exercise self-control they should marry" (1 Corinthians 7:9)¹¹.

⁹ Pope Gregory VII continued the work of his predecessors with even greater vigor, inflicting the same punishments reserved for simonists upon clerics who were married or engaged in concubinary relationships. See BROOKE, C., «Gregorian Reform in Action: Clerical Marriage in England, 1050-1200», in *Cambridge Historical Journal* 12 (1956), pp. 1-21; LLEWELLYN BARSTOW, A., *Married Priests and the Reforming Papacy: The Eleventh-Century Debates*, New York 1982; BLUMENTHAL, U.-R., «Pope Gregory VII and the Prohibition of Nicolaitism», in *Medieval Purity and Piety. Essays on Medieval Clerical Celibacy and Religious Reform*, FRASSETTO, M. (ed.), New York and London 1998, pp. 239-267. See also COWDREY, H.E.J., «Pope Gregory VII and the Chastity of the Clergy», in *Medieval Purity and Piety* FRASSETTO, M. (ed.), cit., pp. 269-302.

¹⁰ For example, canons 6 and 7 of the Second Lateran Council (1139) interpreted conjugal relations on the part of subdeacons and higher ranks of the clergy as outright concubinary relations (*Concilium Lateranense II*, can. 6-7, in *Conciliorum Oecumenicorum Decreta*, cit., p. 198).

¹¹ Landulf Senior, *Historia mediolanensis*, II, 35. For a historiographical perspective, cf. QUARANTA, F., *Preti sposati nel medioevo. Cinque apologie*, Torino 2000, pp. 59-64.

Naturally, the clerical obligation to continence was one of the subjects tackled by the Camaldolese monk Gratian in his work, which was composed in Bologna around 1140 with the aim of collecting all of the Church's legal material from the first millennium. Above all, he addressed the issue in his *Distinctions* (the first part of the *Decretum*), from 26 to 34 and then again from 81 to 84. In general, Gratian's *Decretum* maintained the same approach as the Gregorian reformers in their fight against sexual incontinence: celibacy was required starting from the subdiaconate and any married men who had received orders were to practice continence¹².

It is also known that Gratian preferred to use the theological/moral concept of *miser cordia*, which was a frequent occurrence in the canonical sources of late antiquity and the early Middle Ages, and that he placed it in opposition to *rigor iuris* rather than to the Roman-law concept of *aequitas*¹³.

There is one text in particular from the *Decretum* that concerns the focus of the present study. Canon 7, D. 34 provides an account of what Pope Pelagius I (555-560) wrote to the bishop of Florence regarding a man who, following the death of his wife, had kept a concubine and had had children with her; this man now wanted to become a deacon, and the bishop had turned to the Pope for guidance. The Pope responded by giving his consent, on the assumption that the now old age of the ordinand would act as a guarantee of his future continence (“...*aetas istius de quo agitur, futurae incontinentiae suspicionem auferre dignoscitur*”). He also consented to the concubine entering a convent, as she would take a vow of continence (“*continentiam professura*”)¹⁴. In the *dictum* that followed the canon, Gratian

¹² GAUDEMET, J., «Gratien et le célibat ecclésiastique», in *Studia Gratiana* 13 (1967), pp. 341-369, also in ID., *La société ecclésiastique dans l'Occident médiéval*, London 1980, IV, pp. 341-369; LIOTTA, F., *La continenza dei chierici nel pensiero canonistico classico. Da Graziano a Gregorio IX*, Milano 1971; BRUNDAGE, J.A., *Law, Sex, and Christian Society*, cit., pp. 251-253.

¹³ CARON, P.G., “*Aequitas*” romana, “*miser cordia*” patristica ed “*epicheia*” aristotelica nella dottrina dell’“*aequitas*” canonica. *Dalle origini al rinascimento*, Milano 1971, pp. 19-37.

¹⁴ D. 34 c. 7 [the cited edition is *Decretum Gratiani emendatum et notationibus illustratum unà cum glossis*, Gregorio XIII. Pont. Max. iussu editum, Venetiis 1591].

interpreted the Pope's instructions as a dispensation *ex misericordia*: "*Hoc ex dispensatione misericordiae*"¹⁵.

The concept of *misericordia* as the motivating feeling behind a papal dispensation was also referenced in ecclesiastical lawmaking. Indeed, Pope Alexander III (1159-1181) addressed a decretal to the deacon and ministers of Limoges in which he approved of the possibility of allowing the subdeacon Herbertus to contract marriage, and as he made expressly clear in the text, his ruling was born out of mercy ("*...cum eo misericorditer ageremus...*")¹⁶. In this case, mercy represented a clear exception to the general rule—expressed in other decretals issued by Alexander III—which prohibited subdeacons from marrying. These decretals were included under the same title IV (*Qui clerici vel voventes matrimonium contrahere possunt*) of book IV of the *Compilatio prima* and subsequently collected in the *Liber Extra*¹⁷. Petrus Hispanus adopted a similar interpretation in his apparatus to the *Compilatio prima*, composed between 1193 and 1198. Specifically, the canonist examined a decretal issued by Gregory VIII in 1187 whereby the Pontiff allowed a cleric from Nonantola who had contracted marriage to receive the ecclesiastical benefices that had been taken from him due to his marriage. Petrus Hispanus offered a rather creative interpretation of the situation: on the one hand, he pointed to the unfitness of incontinent clerics to hold ecclesiastical benefices, but on the other hand, he recognized an exception *ratione misericordiae* in favor of those who found themselves in a state of poverty¹⁸.

The tone struck in Constitution 14 of the Fourth Lateran Council takes on great importance when examining ecclesiastical concubinage from the point of view of mercy and forgiveness. Convoked by Pope Innocent III in 1215, this council could be considered a sort of grand synthesis of this pope's work, as well as his greatest

¹⁵ *Dictum* post D. 34 c. 7. Cf. LIOTTA, F., *La continenza dei chierici*, cit., pp. 13-15.

¹⁶ Comp.I.4.6.4, *Cum institisset*.

¹⁷ Cf. X.4.6.1, (=Comp.I.4.6.1); X.4.6.2, (=Comp.I.4.6.2).

¹⁸ LIOTTA, F., *La continenza dei chierici*, cit., pp. 301-303.

initiative¹⁹. It is not so much the first part of the constitution that is worthy of interest: the clergy is invited to live in continence and chastity such that the customs of the clergy itself can be reformed for the better (“*Ut clericorum mores et actus in melius reformatur, continenter et caste vivere studeant universi...* ”). The part that follows, however, introduces the idea that easy forgiveness (“*facilitas veniae*”) when it comes to the specific problem of clerical incontinence would risk amounting to an incentive to transgress²⁰. This concept was revisited in similar terms by one of the greatest canonists of the 15th century, Nicolaus de Tudeschis—otherwise known as Abbas Panormitanus. In his commentary on the decretal *Ut clericorum* (X.3.1.13=Comp.IV.3.1.2), he wrote very clearly that easy forgiveness “*tribuit incentivum peccandi vel delinquendi*”, as “*non enim valet misericordia sine iustitia, nec iustitia sine misericordia: sed commiscenda sunt et efficiendum est optimum temperamentum*”²¹.

A ‘relapse’ into the sin of concubinage was facilitated in the late Middle Ages by the lenient approach of a good number of bishops who for centuries had allowed children of the clergy to take their fathers’ places—both in the practice of their ministry and in the utilization of ecclesiastical property—as a way of ensuring continuity in pastoral care²². Furthermore, it was fairly common for ecclesiastical

¹⁹ On the Fourth Lateran Council (1215), it shall suffice to cite CIOLA, N., SABETTA, A., SGUAZZARDO, P., *Il Concilio Lateranense IV a 800 anni dalla sua celebrazione. Una rilettura teologica*, Città del Vaticano 2016. But see also QUAGLIONI, D., «I concili del medioevo e dell’età moderna», in *Storia dei Concili* AUBERT, R., FEDALTO, G., QUAGLIONI, G., Cinisello Balsamo 1995, especially pp. 122-130.

²⁰ “*Ne vero facilitas venie incentivum tribuat delinquendi, statuimus ut qui deprehensi fuerint incontinentie vitio laborare, prout magis aut minus peccaverint, puniantur secundum canonicas sanctiones, quas efficacius et districtius precipimus observari...*” (*Constitutiones Concilii quarti Lateranensis una cum Commentariis glossatorum*, edited by GARCÍA Y GARCÍA, A. (Monumenta iuris canonici. Series A: Corpus Glossatorum), vol. 2, Città del Vaticano 1981, Const. 14, p. 63, also in *Conciliorum Oecumenicorum Decreta*, cit., p. 242). Cf. «Joannis Teutonici Apparatus in Concilium Quartum Lateranense», in *Constitutiones Concilii quarti Lateranensis*, cit., p. 206.

²¹ Nicolaus de Tudeschis, *Commentaria in Tertium Decretalium Librum*, Lugduni, Georges Regnault, 1550, comm. ad X.3.1.13, *Ut clericorum*, 7r, n. 3.

²² On the early Middle Ages, cf. ROSSETTI, G., *Il matrimonio del clero nella società altomedievale*, in *Il matrimonio nella società altomedievale 22-28 aprile 1976* (Settimane di studio del Centro italiano di studi sull’alto medioevo), vol. I, Spoleto 1977, pp. 473-554; VIOLANTE, C., *Ricerche sulle istituzioni ecclesiastiche dell’Italia centro-settentrionale nel Medioevo*, Palermo 1986, pp. 267-447.

judges to accept sums of money from concubinary clerics in exchange for turning a blind eye to their conduct²³.

The issue was sternly addressed in the *Decretum de concubinariis*, issued on 22 January 1435 during the Council of Basel: this measure ordered ecclesiastics to leave their concubines under penalty of the loss of benefices, and it made a point of providing for any ‘relapse’ into public concubinage: “*Qui si post dispensationem recidivo vomitu ad huiusmodi publicum concubinatum redierint, sine spe alicuius dispensationis ad praedicta prorsus inhabiles existant*”²⁴. Once again, the approach that emerged from these conciliar decrees was one of extreme severity when it came to recidivists, who would forever be unfit to receive ecclesiastical property or offices, with no hope of further dispensation. The measures *de concubinariis*, adopted at Session XX of the Council of Basel, would be faithfully enforced during the pastoral visitations carried out in various dioceses over the first half of the 15th century²⁵.

Naturally, the obligation to ecclesiastical celibacy and clerical continence was also addressed in some papal decretals, collected in the *Liber Extra* under the title *De cohabitatione clericorum et mulierum* (X.3.2). Pope Alexander III frequently addressed the bishops of England²⁶, inflicting penalties of suspension, interdict and even excommunication if clergy persisted in such illicit behavior²⁷. If the cleric had done an appropriate penance, then it was possible to reinstate him in the ministry²⁸. In commenting on Alexander III’s decretals, canonical doctrine insisted on the

²³ Misfeasance of this sort was also reported in the centuries that followed. For the 1500s, cf. the work of the bishop of Roermond: HENRI VAN CUYCK, *Speculum concubinariorum sacerdotum, monachorum ac clericorum*, Coloniae, Apud Bernardum Gualtheri, 1599, cap. XXXIX, p. 147.

²⁴ *Concilium Basileense*, Sessio XX, 22 January 1435, *Decretum de concubinariis*, in *Conciliorum Oecumenicorum Decreta*, cit., pp. 485-487, especially p. 486. On the *Decretum de concubinariis* see BOELENS, M., «Die Klerikerehe in der kirchlichen Gesetzgebung vom II. Laterankonzil bis zum Konzil von Basel», in *Jus sacrum. Klaus Mörsdorf zum 60. Geburtstag*, SCHEUERMANN, A. und MAY, G. (eds.), München-Paderborn-Wien 1969, pp. 593-614, especially pp. 611-614.

²⁵ On the diocese of Como see *La visita pastorale di Gerardo Landriani alla diocesi di Como (1444-1445)*, a cura e con Introduzione di CANOBBIO E., Milano 2001, especially pp. 70-75.

²⁶ Cf. BRUNDAGE, J.A., *Law, Sex, and Christian Society* cit., p. 404; WERNER, J., “*Just as the Priests have their Wives*”: *Priests and Concubines in England, 1375-1549*, Chapel Hill 2009.

²⁷ X.3.2.3 (=Comp.I.3.2.4); X.3.2.4 (=Comp.I.3.2.5); X.3.2.6 (=Comp.I.3.2.7).

²⁸ Comp.I.4.6.5.

importance of punitive rigor when punishing clerics who did not rid themselves of concubines even after being *moniti*²⁹.

It should come as no surprise that a *clericus recidivans ad concubinatum* would face the very serious consequence of excommunication, at least according to the provisions of ecclesiastical law³⁰. Ever since the early centuries AD, the punishments reserved for concubinary clerics were quite severe³¹: canon 33 of the Council of Elvira (ca. 305) prohibited bishops, presbyters and deacons from marrying as well as from having children, under penalty of deposition³². Similarly, other conciliar resolutions shortly thereafter established that any ecclesiastic who contracted marriage would be removed from his post³³. This trend continued through

²⁹ NICOLAUS DE TUDESCHIS, *Commentaria in Tertium Decretalium Librum*, Lugduni, Georges Regnault, 1550, comm. ad X.3.2.4, *Sicut ad exstirpanda*, fol. 11ra, n. 1; comm. ad X.3.2.6, *Si autem*, fol. 11rb, n. 1; ANTONIUS A BUTRIO, *In Librum Tertium Decretalium Commentarij*, t. V, Venetiis, apud Iuntas, 1578, comm. ad X.3.2.4, *Sicut ad exstirpanda*, fol. 6v, n. 1; comm. ad X.3.2.6, *Si autem*, fol. 7r, n. 1; IOANNES ANDREAE, *In tertium Decretalium librum Novella Commentaria*, Venetijs, apud Franciscum Franciscium, Senensem, 1581, comm. ad X.3.2.3, *Clericos autem*, fol. 7r, n. 1; comm. ad X.3.2.4, *Sicut ad exstirpanda*, fol. 7v, n. 1; comm. ad X.3.2.6, *Si autem*, fol. 8r, n. 1; BALDUS DE UBALDIS, *In Decretalium Volumen Commentaria*, Venetiis, apud Iuntas, 1595, rist. anast. Torino 1971, comm. ad X.3.2.4, *Sicut ad exstirpanda*, fol. 317ra, n. 1; comm. ad X.3.2.6, *Si autem*, fol. 317rb, n. 1.

³⁰ Cf. BRUNDAGE, J.A., *Law, Sex, and Christian Society*, cit., pp. 342-343, pp. 401-405, pp. 474-477, pp. 536-539.

³¹ For a general overview of the sanctions in place against clerical concubinage, see CARON, P.G., «Concubinato (diritto canonico)», in *Novissimo Digesto Italiano*, vol. III, Torino 1959, pp. 1059-1063.

³² *Concilium Eliberitanum*, can. 33, in MANSI, J.D., *Sacrorum Conciliorum Nova et Amplissima Collectio*, vol. 2, Graz 1960, p. 11. For a historiographical perspective, cf. LECLERCQ, H., «La législation conciliaire relative au célibat ecclésiastique», in *Histoire des conciles d'après les documents originaux*, HEFELE, C.J., 2/2, Paris 1908, pp. 1321-1348, especially pp. 1341 ss.; FRATTALLONE, R., «Celibato sacerdotale e voto di castità», in *Celibato e sacerdozio*, CIPRESSA, S. (ed.) cit., pp. 85-123, especially pp. 90-92; LÁZARO SÁNCHEZ, M.J., «L'état actuel de la recherche sur le concile d'Elivire», in *Revue des Sciences Religieuses* 82/4 (2008), pp. 517-546.

³³ For what specifically concerns clerical concubinage on the Iberian Peninsula, see AZNAR GIL, F.R., «La penalización de los clérigos concubinarios en la Península Ibérica (siglos XII-XVI)», in *Revista Española de Derecho Canónico* 55 (1998), pp. 503-546; ID., *Delitos de los clérigos contra el sexto mandamiento*, Salamanca 2005; KELLEHER, M.A., «'Like Man and Wife': Clerics' Concubines in the Diocese of Barcelona», in *Journal of Medieval History* 28/4 (2002), pp. 349-360; ARMSTRONG-PARTIDA, M., «Priestly Marriage: the Tradition of Clerical Concubinage in the Spanish Church», in *Viator* 40/2 (2009), pp. 221-253; EAD., «Priestly Wives: The Role and Acceptance of Clerics' Concubines in the Parishes of Late Medieval Catalunya», in *Speculum* 88/1 (2013), pp. 166-214; EAD., *Defiant Priests. Domestic Unions, Violence, and Clerical Masculinity in Fourteenth-Century Catalunya*, New York 2017; EAD., «Mariage clérical et masculinité sacerdotale dans la Catalogne du

the centuries that followed: at the Council of Reims (1119), Pope Callixtus II ordered that anyone who persisted in committing this sin would be punished by excommunication³⁴. However, there is no evidence to support the argument that the conciliar canons provided for the tacit renunciation of an ecclesiastical office, as on the contrary, they explicitly stated that any ecclesiastic who contracted marriage or engaged in concubinage would be punished by deposition³⁵.

Despite these repeated, persistent prohibitions, everyday life was starkly different. Indeed, the society of the time demonstrated widespread tolerance of clerical concubinage, above all in rural areas that were far from the main urban centers. Priests in concubinary relationships could be found more or less everywhere around Europe, and not only in the southern regions of the Italian peninsula, where the cohabitation of priests *more uxorio* was in part due to the strong presence of Greek clergy³⁶ in the area up until the early modern period—rules on celibacy were less strict in the Greek Orthodox church³⁷. Despite severe legislation of the matter, above all as concerned ‘relapses’ into the sin, it can be said that clerical concubinage in Europe continued to be a relatively common occurrence even after the Gregorian reform. Nonetheless, such practices were generally rebuked by Church leaders, with one of the main reasons being the need to ensure that ecclesiastics left no heirs when they died³⁸.

XIV^e siècle», in *L’Eglise et la chair*, THÉRY-ASTRUC, J. (ed.) Toulouse, in press; JIMENO ARANGUREN, R., *Concubinato, matrimonio y adulterio de los clérigos*, cit.

³⁴ *Concilium Remense*, can. 5, in MANSI, J.D., *Sacrorum Conciliorum Nova et Amplissima Collectio*, vol. 21, Graz 1961, p. 236.

³⁵ Cf. CARON, P.G., *La rinuncia all’ufficio ecclesiastico nella storia del diritto canonico dalla età apostolica alla Riforma Cattolica*, Milano 1946, pp. 35-36.

³⁶ On the period that followed, cf. FALCETTA, A., *Ortodossi nel Mediterraneo cattolico. Frontiere, reti, comunità nel Regno di Napoli (1700-1821)*, Roma 2016.

³⁷ HERMAN, E., «Célibat des clercs (droit oriental)», in *Dictionnaire de droit canonique*, vol. 3, Paris 1942, col. 145-156; HERDE, P., «Il Papato e la Chiesa greca nell’Italia meridionale dall’XI al XIII secolo», in *La Chiesa greca in Italia dall’VIII al XVI secolo*, 3 voll., Padova 1972-1973, vol. I, pp. 213-255. More recently SODARO, S., *Keshi. Preti sposati nel diritto canonico orientale*, Trieste 2000; GIRGIS, R., «Il clero coniugato nella disciplina antica delle Chiese orientali», in *Collectanea*, 44 (2011), pp. 81-167.

³⁸ GOODY, J., *La famiglia nella storia europea*, trad. it. di Marina Chiarioni, Roma-Bari, Laterza, 2000, especially p. 63. On the inheritance rights of children of the clergy, might I refer to SALVI, S.T., «A Difficult Legacy. Initial Comments on the Inheritance Rights of Filii Clericorum in the Middle

3. THE 1500S: THE COUNCIL OF TRENT AS A TURNING POINT.

The ideological change pervading the Church in the 1500s could already be seen in the Fifth Lateran Council (1512-1517), convoked by Pope Julius II. A few decades later, it would culminate in the Council of Trent. The *Bulla reformationis curiae* (Session IX – 5 May 1514) insisted on severely punishing concubinary clerics and criticized the leniency of ecclesiastical judges, calling it nothing short of corruption (*corruptela*): “*Concubinarij autem, sive laici sive clerici fuerint, eorumdem canonum poenis multentur: neque superiorum tolerantia seu prava consuetudo, quae potius corruptela dicenda est, a multitudine peccantium, aliave quaelibet excusatio eis aliquo modo suffragetur, sed iuxta iuris censuram severe puniantur*”³⁹.

That same year, Pope Leo X harshly condemned both lay and clerical concubinage with the papal bull *Supernae dispositionis* (1514), which sought to rein in the tolerance that was often demonstrated when it came to concubinage (“*Superiorum tolerantia*”)⁴⁰.

One must look no further than the scandals recorded between the end of the 1400s and the beginning of the 1500s to see that, in practice, the ecclesiastical authorities tolerated such behavior. One such example was the Apostolic Penitentiary, established around the middle of the 12th century as a tribunal having jurisdiction over the internal forum, and which dealt with cases reserved for the Pope. Records provide evidence of uninhibited sexual customs reigning in monasteries and the poor discipline of both male and female religious orders leading up to the Protestant Reformation. Indeed, as can be seen in Filippo Tamburini’s analysis, there

Agnes and Early Modern Period», in *Through Generations. Succession Law, Practice and Society Across the Centuries*, DI RENZO VILLATA, M.G. (ed.), in press.

³⁹ *Concilium Lateranense V*, Sessio IX, 5 May 1514, «*Bulla reformationis curiae*», in *Conciliorum Oecumenicorum Decreta*, cit., p. 623.

⁴⁰ LEONIS PP. X, «*Supernae dispositionis*» (1514), in *Bullarium Romanum Novissimum a B. Leone Magno, usque ad S. D. N. Urbanum VIII*, vol. 1, Romae: Ex Typographia Rev. Camerae Apostolicae, 1638, p. 408, § 36. Cf. NARDI, C., *Cenni storici del concubinato*, cit., p. 15 nt. 21.

were several pleas made to this tribunal that demonstrated the moral decadence of the clergy as well as the laxity of monastic life at the end of the 15th century⁴¹.

Inevitably, the reaction to this state of affairs reached its climax in the heart of the 16th century with the canons approved during the Council of Trent (1545-1563)⁴². This represented a crucial stage in the discipline of clerical concubinage in the early modern period: indeed, as a result of this council, the Latin Church chose celibacy as the only way to enter the priesthood⁴³.

The difficult issue of reforming the clergy was the subject of the two final sessions (XXIV and XXV), held towards the end of 1563. Among the many aspects of clerical life, the inobservance of the vow of chastity was one of the important problems to address. Thus, the Council of Trent set forth rules that would require stricter obedience on the part of priests.

Some conciliar Fathers defended the opinion that for the peace of souls, it would have been better to abolish the obligation to celibacy. Nonetheless, after much

⁴¹ TAMBURINI, F., *Santi e peccatori. Confessioni e suppliche dai Registri della Penitenzieria dell'Archivio Segreto Vaticano (1451-1586)*, Presentazione di Attilio Agnoletto, Milano 1995, especially pp. 41-43, pp. 48-52, pp. 154-155, pp. 326-329, p. 334.

⁴² While the following list of references is by no means exhaustive, on the Council of Trent (1545-1563) see JEDIN, H., *Storia del Concilio di Trento*, Brescia 1949; CRISTIANI, L., *La Chiesa al tempo del Concilio di Trento (Storia della Chiesa 17)*, Prima edizione italiana a cura di A. GALUZZI, Torino 1977; JEDIN, H., PRODI, P. (eds.), *Il Concilio di Trento come crocevia della politica europea*. Bologna 1979; ISERLOCH, E., GLAZIK, J., JEDIN, H., *Riforma e Controriforma. Crisi, consolidamento, diffusione missionaria XVI-XVII sec. (Storia della Chiesa 4)*, trad. it, Milano 1993; PEYRONEL RAMBALDI, S., *Il Concilio di Trento*, Milano 1984; MARTINA, A., *La Chiesa nell'età della riforma*, Brescia 1988; BERNHARD, J., LEFEBVRE, C., RAPP, F., *L'époque de la Réforme et du Concile de Trente (Histoire du Droit et des Institutions de l'Église en Occident 14)*, Paris 1990; PRODI, P., REINHARD, W. (eds.), *Il Concilio di Trento e il moderno*. Bologna 1996; PRODI, P., *Una storia della giustizia. Dal pluralismo dei fori al moderno dualismo tra coscienza e diritto*, Bologna 2000, pp. 269-324; ID., *Il paradigma tridentino. Un'epoca della storia della Chiesa*, Brescia 2010; ALBERIGO, G. and ROGGER, I., *Il Concilio di Trento nella prospettiva del terzo millennio*, Atti del Convegno tenuto a Trento il 25-28 settembre 1995, Brescia 1997; PROSPERI, A., *Il Concilio di Trento: una introduzione storica*, Torino 2001; ID., «La Chiesa di Roma: il papato e la riforma tridentina nel Cinquecento», in *Storia del cristianesimo*, LAVENIA, V. (ed.) vol. 3, *L'età moderna (secoli XVI-XVIII)*, Roma 2015, pp. 183-212; TALLON, A., *Il concilio di Trento*, trad. it. di Bruno Pistocchi, Cinisello Balsamo 2004; BASDEVANT-GAUDEMET, B., *Histoire du droit canonique et des institutions de l'Église latine XV^e-XX^e siècle*, Paris 2014, pp. 39-54; GARCÍA HOURCADE, J.J., «Trento: negociación y discernimento», in *Vergentis 1* (2015), pp. 215-254.

⁴³ Cf. FERASIN, E., *Matrimonio e celibato al Concilio di Trento*, Roma 1970.

debate, Session XXIV produced the *canones de sacramento matrimonii* (can. 9)⁴⁴, whereby the council essentially reaffirmed the laws set forth during the Second Lateran Council. The latter council had been intent on strengthening the Gregorian reform, declaring that if any clerics in major orders were to marry, then not only were their marriages illicit, they were also invalid⁴⁵. Thus, the Council of Trent fervently reaffirmed that it was prohibited for priests to live in abject impurity and in the filth of concubinage (“*in impudicitiae sordibus immundoque concubinato versari*”).

Compared to the past, the discipline implemented by the Council of Trent was more methodical in combating this issue, through progressively harsher sanctions. In that regard the laws were clear: if the first warning proved ineffective, then concubinary clerics would be deprived of one-third of the fruits and income deriving from their benefices; if a second warning still proved ineffective, then their right to a benefice would be suspended. If they persisted in such conduct, they would forever be deprived of all ecclesiastical offices and benefices in their name. Anyone who, despite receiving three warnings from the Ordinary, failed to rid himself of his concubine, or who, after sending her away, took her back or took others, would be excommunicated; the concubines would be appropriately punished, and they could be expelled from the city or from the diocese⁴⁶. Thus, a ‘relapse’ into this sin resulted in the most serious of punishments: excommunication.

The sexual reform that came out of the Council of Trent in the second half of the sixteenth century was systematically pursued in the decades to follow through the convergent efforts of moral theologians, confessors, preachers, and of course the

⁴⁴ “*Si quis dixerit, clericos in sacris ordinibus constitutos, vel regulares, castitatem solemniter professos, posse matrimonium contrahere, contractumque validum esse, non obstante lege ecclesiastica vel voto, et oppositum nil aliud esse, quam damnare matrimonium...a.s.*” (Concilium Tridentinum, Sessio XXIV, *Canones de sacramento matrimonii*, can. 9, in *Conciliorum Oecumenicorum Decreta*, cit., p. 755).

⁴⁵ “*...Huiusmodi namque copulationem, quam contra ecclesiasticam regulam constat esse contractam, matrimonium non esse censemus*” (Concilium Lateranense II, can. 7, in *Conciliorum Oecumenicorum Decreta*, cit., p. 198).

⁴⁶ *Concilium Tridentinum*, Sessio XXIV, *Canones super reformatione circa matrimonium*, cap. VIII, in *Conciliorum Oecumenicorum Decreta*, cit., p. 758; Sessio XXV, *Decretum de reformatione generali*, cap. XIV, in *Conciliorum Oecumenicorum Decreta*, cit., pp. 792-793.

Inquisition⁴⁷. The Counter-Reformation also led to a firm crackdown on filiation, in contrast to a weakening of customs which had given rise to extramarital unions among both the laity and the clergy. Indeed, the Church took a hard line on lay concubinage in the same way that they combated clerical concubinage⁴⁸. Starting in 1563, any form of concubinage was categorically forbidden in the world of Western Catholicism.

The Counter-Reformation brought about definitive affirmation of the principle according to which only those who were free from matrimonial unions, and who promised to forever renounce marriage⁴⁹, could enter sacred orders. Nonetheless, in practice, the scourge of sexual incontinence on the part of clergy continued to be widespread throughout Europe. In any case, the severity imposed by the council had an undeniably positive effect in many European dioceses, which saw noticeable improvement in the sexual habits of clerics compared to previous generations⁵⁰. The council's decrees put bishops in charge of ecclesiastical benefices and clerical morality; the main ways through which to exercise oversight would be provincial councils and diocesan synods, which were to be held periodically, as well as pastoral visitations, which were to take place at least every two years. Pastoral visitation reports⁵¹ represent an important historical source which testify to the great effort bishops made to eliminate concubinage in the post-Tridentine period⁵².

⁴⁷ CANOSA, R., *La restaurazione sessuale. Per una storia della sessualità tra Cinquecento e Settecento*, Milano 1993.

⁴⁸ *Concilium Tridentinum*, Sessio XXIV, *Canones super reformatione circa matrimonium*, cap. VIII, in *Conciliorum Oecumenicorum Decreta*, cit., p. 758.

⁴⁹ *Concilium Tridentinum*, Sessio XXIII, *Decreta super reformatione*, can. XIII, in *Conciliorum Oecumenicorum Decreta*, cit., p. 749.

⁵⁰ Cf. PO-CHIA HSIA, R., *La Controriforma. Il mondo del rinnovamento cattolico (1540-170)*, trad. it. di Elena Bonora, Bologna 2001, pp. 155-156.

⁵¹ For a general overview, see NUBOLA, C. - TURCHINI, A. (eds.), *Visite pastorali ed elaborazione dei dati. Esperienze e metodi*, Bologna 1993. For what concerned the diocese of Trent in particular, see NUBOLA, C., *Conoscere per governare. La diocesi di Trento nella visita pastorale di Ludovico Madruzzo (1579-1581)*, Bologna 1993, pp. 347-360, pp. 432-453.

⁵² On the previous centuries, see MANEUVRIER-HERVIEU, P., *L'amour interdit: femmes et clercs dans le registre d'Eudes Rigaud (1248-1249)*, Communication dans le cadre du 48e Congrès des Sociétés Historiques et Archéologique de Normandie *Être femme(s) en Normandie* (Bellême, octobre 2013), published online at www.academia.edu.

Nonetheless, despite the efforts made in Trent to crack down on the practice, concubinage proved difficult to eradicate: around the year 1580, the Bishop of Trieste, Nicolò Coret, stated that if he had to remove all concubinary clerics, then most of the parishes in his diocese would be left without a curate⁵³.

Indeed, ecclesiastical authorities faced difficulties in the practical enforcement of Tridentine decrees against concubinary unions. This was evidenced by the fact that at the end of the Council of Trent, numerous provincial and diocesan synods were convoked wherein the discipline of secular clergy was constantly discussed and developed through the establishment of specific rules⁵⁴.

4. EXAMINING THE LITERATURE: THE INHERENT DANGERS OF “RECIDIVATIO CLERICI CONCUBINARI” ACCORDING TO BERMOND CHOVERON (16TH CENTURY).

The so-called post-Tridentine period spanned the papacies of Pius V and Paul V (1566-1621). This time was marked by attempts on the part of bishops—some more forcefully than others—to enforce conciliar decrees regarding the administrative reorganization of the dioceses under their guidance⁵⁵, and above all as concerned the disciplinary reform of the clergy. As previously mentioned, one of the main objectives of the Council of Trent was the moral renewal of the clergy, who were often harshly criticized for their scandalous customs in the 16th century⁵⁶. Though the methods and pace of reform varied from one diocese to another, the disciplinary reform of the secular clergy was set in motion thanks to the efforts of

⁵³ SARTI, R., «Nubili e celibi tra scelta e costrizione. I percorsi di Clio (Europa occidentale, secoli XVI-XX)», in *Nubili e celibi tra scelta e costrizione (secoli XVI-XX)*, LANZINGER, M. and SARTI, R. (eds.), Udine 2006, pp. 144-318, especially p. 223.

⁵⁴ Cf. GRECO, G., «Fra disciplina e sacerdozio: il clero secolare nella società italiana dal Cinquecento al Settecento», in *Clero e società nell'Italia moderna*, ROSA, M. (ed.), Roma-Bari 1995, pp. 45-113.

⁵⁵ On the ecclesiastical organization of dioceses in the early modern period, see PRODI, P., «Tra centro e periferia: le istituzioni diocesane post-tridentine», in *Cultura, religione e politica nell'età di Angelo Maria Querini*, BENZONI, G. - PEGRARI, M. (eds.), Brescia 1982, pp. 209-223.

⁵⁶ GRECO, G., *Fra disciplina e sacerdozio*, cit.

bishops, archbishops and apostolic visitors who wielded broad inspectional powers. In addition, the literature of the time certainly made a contribution.

The treatises reflected the new, ideal model of sacerdotal life that had been established at Trent and enforced in the post-Tridentine Church⁵⁷, namely that which saw the role of the priest transform from a typically medieval ‘ministerial’ figure—meaning someone who simply administered the sacraments—to that of a ‘shepherd of souls’, in accordance with the Tridentine resolutions⁵⁸. The aim was to move towards a society which, from that moment onward, would be different and disciplined⁵⁹.

In my opinion, the treatise on public concubinage written by the French jurisconsult Bermond Choveron was part of this current of thought. Published for the first time in Lyon in 1550, it was included in the 1584 Venetian edition of the *Tractatus universi iuris*⁶⁰ and placed on the Index in 1603⁶¹. Choveron’s work is one of the few in which the concept of mercy was expressly mentioned with respect to the grave sin of clerical concubinage. In particular, Choveron—minister of Viviers Cathedral—connected it to the problem of “*recidivatio clerici concubinari*”, which he addressed in a specific paragraph entitled *Sine spe alicuius dispensationis*. Here it is explicitly stated that “*Episcopus non potest bis dispensare cum publico concubinario*”⁶². Indeed, as “*etiam Deus peccanti assidue de facili non elargitur misericordiam*”, the transgressor cannot be forgiven more than once. Furthermore,

⁵⁷ An illustrative example of this was represented by Saint Charles Borromeo: ALBERIGO, G., «Carlo Borromeo come modello di vescovo nella Chiesa post-tridentina», in *Rivista storica italiana*, 79 (1967), pp. 1031-1052; BOSATRA, B.M., «Ancora sul vescovo ideale della riforma cattolica. I lineamenti del pastore tridentino-borromaico», in *La Scuola Cattolica*, 112 (1984), pp. 517-579.

⁵⁸ ROSA, M., *Clero cattolico e società europea nell’età moderna*, Roma-Bari 2006, p. 53.

⁵⁹ Cf. PRODI, P. (ed.) con la collaborazione di PENUTI, C., *Disciplina dell’anima, disciplina del corpo e disciplina della società tra medioevo ed età moderna*, Bologna 1994.

⁶⁰ The edition consulted is BERMOND CHOVERON, *In Sacrosanctoris Lateranensis Concilii (concordata vocant) titulum de publicis concubinariis commentaria*, in *Tractatus Illustrium in utraque tum pontificii, tum caesarei iuris facultate Iurisconsultorum, De Iudicijs Criminalibus*, t. XI, p. I, Venetiis, Societas Aquilae se renovantis, 1584, fol. 145ra-195rb.

⁶¹ DE BUJANDA, J.M., *Index librorum prohibitorum 1600-1966*, Montréal 2002, p. 219.

⁶² CHOVERON, op. cit., fol. 170rb, n. 1.

any sinner who had been treated in a forgiving manner the first time would deserve a harsher punishment if he once again committed the same error⁶³.

Thus, the forgiveness which was mercifully offered to the penitent transformed into a harsher punishment in the case of *recidivatio* “...*quia cum praedictis redeuntibus ad vomitum non clementia, sed severitas est exercenda*”. Consequently, ‘obstinate’ concubinary clerics were not deserving of divine mercy (“*obstinatis concubinariis, et impenitentibus in spurcitia*”)⁶⁴.

This was the premise which led the author to illustrate that “*recidivatio clerici concubinarium inducit septem pericula*”⁶⁵.

In the first place, a relapse into the same sin would nullify “*fructum praeteritae contritionis*”, essentially negating previous efforts to overcome sinful instincts. Furthermore, “*recidivatio vilificat clericum concubinarium*”, like the dog in the Book of Proverbs: “*As the dog returns to his vomit, so the fool repeats his folly*”⁶⁶. The same could be said of a cleric who, once he had abandoned a licentious concubinary relationship, was not able to live a life of continence.

The third danger was perhaps the most fearsome: “*Tertium periculum est quia clericus recidivans in maiorem potestatem Diaboli incidit et exinde fortius a Diabolo possidetur*”. Like a soldier who manages to reconquer a fortress that had been lost, and who will thus strive to protect it better and more vigorously this time so as not to lose it again, so too will the devil exert that much more force over a recidivist cleric, driving him even more towards this sin of the flesh.

The fourth danger concerned the ‘cure’ for the sin: just as it is difficult for a chronic wound or illness to heal, so too will it be that much more difficult for a recidivist concubinary cleric to heal from his sin⁶⁷. The author then went on to

⁶³ CHOVERON, op. cit., fol. 170va, n. 2.

⁶⁴ CHOVERON, op. cit., fol. 170va, n. 3.

⁶⁵ CHOVERON, op. cit., fol. 170va, n. 4.

⁶⁶ Proverbs 26:11.

⁶⁷ Luke 11:24-26.

describe the fifth danger, which specifically concerned divine mercy and is quoted in the title of this article. Namely, a recidivist cleric would reveal himself to be an ingrate, disdainful of God's divine mercy: "*Quintum periculum est quia clericus recidivans est irrisor divinae misericordiae, quae sibi per emendationem vitae fecerat pacem cum divina iustitia*"⁶⁸. A mortal sinner would have to face the terrible consequences of being deprived of the Virgin Mary, Christ and the grace of God ("*...et privatur omni gratia Dei*"): indeed these were the *pericula sextum* and *septimum*⁶⁹.

Thus, relapsing into the sin—*redire ad vomitum* as is written in the Holy Scriptures⁷⁰—was even graver than the sin itself. Any cleric who had once lived in concubinage but had then repented and been forgiven by divine mercy would have to conduct himself by the strictest and most rigorous of standards from then on, because if he were to sin again, he would not be granted absolution a second time ("*quia impenitentibus nulla spes dispensationis promittitur*")⁷¹.

5. CONCLUSIONS.

It is now possible to offer some concluding remarks about the problem of "*recidivatio clerici concubinari*".

Choveron's work was a true reflection of the Counter-Reformation spirit that pervaded 16th-century Europe even before the formal opening of the Council of Trent. The trend in canon law over the course of the late Middle Ages was to exalt virginity and repress sexual relations, and this re-emerged in overwhelming fashion in the Tridentine decrees, which aimed to achieve concrete improvement in the morals of clerics.

⁶⁸ CHOVERON, op. cit., fol. 170va, n. 5.

⁶⁹ CHOVERON, op. cit., fol. 170va, n. 6.

⁷⁰ Cf. Proverbs 26:11; 2 Peter 2:22.

⁷¹ CHOVERON, op. cit., fol. 170va, n. 6.

The Church methodically fought a war on numerous fronts in order to attain a level of moral conduct that lived up to its precepts, but the battle to repress concubinage was without a doubt the one it fought most tenaciously. What's more, it was an especially serious problem if clerics in major orders were engaged in concubinary relationships. In this case, the conduct to be repressed was not only a transgression of a sexual nature (concubinage), but also something much more serious: namely, an open violation of ecclesiastical discipline (disobedience). And this was not simply attributed to the carnality of the transgression or the violation of the obligation to celibacy; more than anything, it was rooted in the undeniable fear that unblessed cohabitation might threaten the very institutional structure of the Church.

In the spirit of the Counter-Reformation, the fragility of human nature might well have justified the granting of divine forgiveness to a penitent, but relapsing into the same carnal sin would have erased all possibility of redemption. Indeed, a recidivist was he who reverted to the same sins even after repeatedly confessing them: he who, despite having been warned, failed to mend his ways. And an utter failure to mend one's ways after confessing a sin raised doubts in the confessor: perhaps the sinner was not truly repentant, but rather—as Choveron wrote—*irrisor divinae misericordiae*. According to the strict standards of post-Tridentine canon law, such doubts could legitimately lead a confessor to deny absolution.