

1 Transformations and Long-Term Explanations

The Transformation of the Roman World: Gibbon

Many historians are as comfortable on the borders between periods as within them.¹ The transformation of the Roman world into the ‘Middle Ages’ is a natural paradigm for this way of thinking about history, and also the setting of the documents at the centre of this book. Edward Gibbon’s *Decline and Fall of the Roman Empire* was a model if a hard act to follow. His close narrative of events still stands up to scrutiny, but he could also take a big-picture view of both sides of the watershed. Between the reigns of the Roman emperor Decius (d. 251) and the younger Theodosius (d. 450), he writes,

the seat of government had been transported from Rome to a new city on the banks of the Thracian Bosphorus; . . . The throne of the persecuting Decius was filled by a succession of Christian and orthodox princes, who had extirpated the fabulous gods of antiquity: and the public devotion of the age was impatient to exalt the saints and martyrs of the catholic church on the altars of Diana and Hercules. The union of the Roman empire was dissolved; its genius was humbled in the dust; and armies of unknown barbarians, issuing from the frozen regions of the North, had established their victorious reign over the fairest provinces of Europe and Africa.²

The Transformation of the Roman World: Peter Brown

The character and causes of the transformation have been endlessly discussed since Gibbon, but in the later twentieth and early twenty-first centuries the *oeuvre* of Peter Brown set a new tone. His focus has been more on culture and religion than on politics or on the economy as normally understood, though he sees forms of thought as part of social

¹ A subsidiary purpose of this chapter is to give background on late Antiquity to readers more familiar with the Middle Ages (1000–1250), and vice versa.

² E. Gibbon, *Decline and Fall of the Roman Empire*, chapter xxxiii, 3 (London, 1993), 392.

and economic change. Brown's views on social and economic change in the older sense stayed within the previous conventional range: without the pump of taxation for the army and the cities, 'the Roman-style economy collapsed . . . From A.D. 400 onwards, diversity, not unity, was the hallmark of an age without empire.'³ The keyword 'diversity' was however the cue for his more distinctive picture of the Western Christendom which emerged from late Antiquity as being 'made up of interlocking modules . . . not like a great tent, upheld by a single tent-pole fixed in Rome or, more widely, in a still "Roman" Mediterranean'.⁴ Brown also shifted attention towards a transformation of attitudes to death.

This marked the medieval period off from the Roman world. In a late work Brown turns to 'the relation between society and the religious imagination, as it played upon the theme of the afterlife'.⁵ He traces the transformation from an afterlife enjoyed by an elite in the stars, 'the mystique of the ancient cosmos', to 'a Christian model of the universe dominated by the notion of sin, punishment and reward'.⁶ These developments are uncoupled from the external history of the empire and its decline and fall: 'some of the most decisive changes in the Christian imagination cannot be linked in any direct way to the brisk pace of history as it is conventionally related in textbooks of the history of the fall of Rome and the beginning of the Middle Ages'.⁷ 'No sense of growing insecurity in the Roman Empire of the late fourth and early fifth centuries can, of itself, explain the lucubrations of Augustine on the tenacity of sin. No shock of barbarian invasion can account for the emergence of a fear of hell and the demonic forces that lie in wait for the soul at the moment of death. These dark imaginings defy our attempts to link them to known political and social crises.'⁸ Again, 'no brutal rupture between a Roman order and a new, "barbarian" age . . . can explain the differences between an Augustine and a Gregory of Tours'.⁹ By the mid-seventh century we see through Brown's eyes a world where monasteries prayed for their founders' souls, and prayers for the dead and donations to help them were normal, where purgation between death and heaven was envisaged, and the relation of the living and the dead was a deep preoccupation, and a source of visions. That new world was the true end of the ancient

³ P. Brown, *The Rise of Western Christendom: Triumph and Diversity, 200–1000 A.D.*, 2nd ed. (Malden, MA, 2003), 12–13.

⁴ *Ibid.*, 16.

⁵ P. Brown, *The Ransom of the Soul: Afterlife and Wealth in Early Western Christianity* (Cambridge, MA, 2015), xii.

⁶ *Ibid.*, 205–6. ⁷ *Ibid.*, xiv. ⁸ *Ibid.*, xiv–xv. ⁹ *Ibid.*, xv.

world.¹⁰ Attitudes to death are not so central in earlier works by Peter Brown, but forms of religious thought and practice in a broad cultural context have tended to dominate all his *oeuvre*.

So sharp a turn away from conventional analyses of the end of empire inevitably elicited reactions. Two implicit reactions to a Brownian concentration on culture and religion represent two different kinds of interpretation: explanatory political narratives underpinned by a model of what one might call ‘empire theory’, and archaeology-based social and economic history. These two approaches (of course there are others) are compatible with each other and with Peter Brown’s, even complementary, but they are pictures from different angles in different colours.

Military Assassination

Peter Heather’s analytical narratives reasserted the ‘brisk pace of history’, and put the ‘shock of barbarian invasion’ back in the centre of the story, explaining its force by the influence on barbarian social, economic, and military culture of their neighbour, the Roman Empire. He suggests that there is

an inbuilt tendency for the kind of dominance exercised by empires to generate an inverse reaction whereby the dominated, in the end, are able to throw off their chains. The Roman Empire had sown the seeds of its own destruction . . . not because of internal weaknesses that had evolved over the centuries, nor because of new ones evolved, but as a consequence of its relationship with the Germanic world . . . The west Roman state fell not because of the weight of its own ‘stupendous fabric’, but because its Germanic neighbours had responded to its power in ways that the Romans could never have foreseen . . . [B]y virtue of its unbounded aggression, Roman imperialism was ultimately responsible for its own destruction.¹¹

How this happened is explained not only by this general model but also by a chronological narrative calculated to bring out the sequence of causation in detail.

Standard of Living

The effect of the empire’s destruction on standards of living is the focus of Brian Ward-Perkins’ *The Fall of Rome and the End of Civilisation* (New York, 2005), which looks like a conscious attempt to bring Brown’s ‘Late Antiquity’ down to earth – even in a literal sense by using

¹⁰ *Ibid.*, 211 and *passim*.

¹¹ P. Heather, *The Fall of the Roman Empire: A New History* (London, 2005), 459.

archaeological evidence to show the scale of the material catastrophe. Again: ‘the fifth century witnessed a profound military and political crisis, caused by the violent seizure of power and much wealth by the barbarian invaders . . . [T]he post-Roman centuries saw a dramatic decline in economic sophistication and prosperity, with an impact on the whole of society, from agricultural production to high culture, and from peasants to kings.’¹²

Christianity as a Social and Economic Fact

Drawing together in a convincing short synthesis the interpretations of Ward-Perkins, Heather, Brown and others, Ian Wood has proposed that the fundamental change was Christianity as an economic, social, and demographic as well as a religious phenomenon.¹³ Note that his argument, if correct, dispenses the historian from any need to put ‘windows into people’s souls’ by speculating about the sincerity of conversion to Christianity in an age when it was evolving from a sect which most members chose to a Church into which they were born.¹⁴ The demographics of the clergy and the transfer of property are the facts on the ground, whatever was going on in people’s minds.

For all their differences in emphasis and approach, all these historians are focussing on transformation: what made the early Middle Ages different from the Roman World or, in the historiographical wake of Peter Brown, from late Antiquity?

Different historians give different answers, not necessarily incompatible. For Peter Brown, the Christianity of the early Middle Ages was different above all because it was a whole series of ‘micro-Christendoms’, each with its own characteristics. He has attempted ‘to delineate the very different forms which Christianity took in the regions in which it gained a foothold’.¹⁵ The social and economic contrasts between regions come out clearly from the systematic comparisons in Chris Wickham’s massive synthesis on the early Middle Ages.¹⁶ Famously, Henri Pirenne found the key to the character of the early Middle Ages in the breakdown of trade, towns, taxation, and lay education after the seventh century, as a consequence of Islamic

¹² *Ibid.*, 183.

¹³ I. Wood, *The Transformation of the Roman West* (Leeds, 2018), 119–20.

¹⁴ See the nuanced account in A. Louth, ‘*Fiunt, non nascuntur Christiani: Conversion, Community and Christian Identity in Late Antiquity*’, in C. Harrison, C. Humfress, and I. Sandwell, *Being Christian in Late Antiquity: a Festschrift for Gillian Clark* (Oxford, 2014), 109–19.

¹⁵ Brown, *Rise of Western Christendom*, 488.

¹⁶ C. J. Wickham, *Framing the Early Middle Ages: Europe and the Mediterranean, 400–800* (Oxford, 2005).

conquests.¹⁷ Julia Smith draws up a convincing shortlist of characteristic features of what we call the early Middle Ages:

generally low population levels despite spasmodic growth; distinct but overlapping local economies combining low-output peasant agriculture and variable levels of urban activity with lavish conspicuous consumption by the elite; strongly gendered hierarchies of domination that commonly conflated the familial and official; the heavy presence of the past as a source of authenticity, legitimization, and meaning; polities incapable of harnessing sufficient economic, political, and cultural resources to overcome their innate tendency to collapse under the weight of their own success . . .

She adds Christianity as a transmitter of much more of Roman culture than its own creed and the ‘critical diagnostic: a cluster of dominant ideologies in which Rome held a central inspirational place but no ascendant political role as it once had had in Antiquity and would again, differently conceived, under papal guidance’.¹⁸ So Smith too sees similarities between periods on either side of what we call the ‘early Middle Ages’.

If we shift our sights to near the other end of the period covered by this study we find exactly the same historiographical tendency to focus on transformation as in the historiography of late Antiquity. This time the transformation is placed approximately in the eleventh century.¹⁹ As with the historiography of late Antiquity, there is a wide range of approaches.

The ‘Making of the Middle Ages’

The nearest medieval counterpart to Peter Brown’s approach is Richard Southern’s; indeed, in the Oxford in which Peter Brown was trained, initially feeling himself to be a medievalist, Southern was the most famous

¹⁷ H. Pirenne, *Mahomet et Charlemagne* (Paris, 1937). Pirenne would probably be flattered to know that his thesis is still thought worth attacking in a premier journal: B. Effros, ‘The Enduring Attraction of the Pirenne Thesis’, *Speculum* 92 (2017), 184–208. Effros thinks he is colonialist and orientalist. Her own interpretation is that – it is complicated, the ‘transformation of the Roman world was far more variable and complex than Pirenne envisioned’ (188).

¹⁸ J. M. Smith, *Europe after Rome: a New Cultural History 500–1000* (Oxford, 2005), 296.

¹⁹ Important exceptions are C. West, *Reframing the Feudal Revolution: Political and Social Transformation between Marne and Moselle, c. 800–c. 1100* (Cambridge, 2013), which sees formalized twelfth-century structures as developing out of Carolingian reforms, and, on religious ‘reform’, S. Hamilton, *Church and People in the Medieval West* (Edinburgh, 2013), 105: ‘there is little new about the ideals taken up by the eleventh-century reformers . . . [T]he project had begun with the Carolingians, and their text and laws provided the foundation for the reforming aspirations of their tenth-, eleventh- and twelfth-century successors.’ The present study looks at even – much – earlier ‘texts and laws’, the relevance of which she is aware of (*ibid.*, 64).

medieval historian, and probably exercised an influence if only by osmosis, since Brown studied as a young student the central medieval period which Southern conveyed to captivated readers in his celebrated *Making of the Middle Ages*; it was published in 1953, the year when Brown started his undergraduate degree.²⁰ In a later book Southern gave a succinct summary of the transformation he saw in the decades following c. 1050:

The social and religious order . . . showed little sign of breaking up in the year 1050. Whether we look at western Europe's general economic condition, its religious ideals, its forms of government, or its ritual processes, there is little to suggest that a great change was at hand. And yet within the next sixty or seventy years the outlook had changed in almost every respect. The secular ruler had been demoted from his position of quasi-sacerdotal splendour, the pope had assumed a new power of intervention and direction in both spiritual and secular affairs, the Benedictine Rule had lost its monopoly in the religious life, an entirely new impulse had been given to law and theology, and several important steps had been taken towards understanding and even controlling the physical world . . . That all this should have happened in so short a time is the most remarkable fact in medieval history . . . At present we understand very little of the causes of rapid change on this scale, but it is possible that the most important factor was a great acceleration in economic development in the late eleventh and early twelfth centuries.²¹

Economy and Religion

The acceleration in economic development is part of the standard narrative of medieval history. Long ago, Henri Pirenne found seeds of what would become a capitalist economy in the enterprise of men like Godric of Finchale (before he gave it all up and became a hermit).²² A generation after Pirenne the formula of a 'Commercial Revolution' was coined by Robert Lopez.²³ There were disagreements, notably about the importance in the process of population growth,²⁴ but few doubted the scale of the economic change.

²⁰ P. Brown, 'SO Debate: The World of Late Antiquity Revisited', *Symbolae Osloenses: Norwegian Journal of Greek and Latin Studies* 72 (1997), 5–30, at 10.

²¹ R. Southern, *Western Society and the Church in the Middle Ages* (London, 1970), 34.

²² See for example H. Pirenne, 'The Stages in the Social History of Capitalism', *American Historical Review* 19 (1914), 494–515; 503–4 for Godric of Finchale.

²³ R. S. Lopez, *The Commercial Revolution of the Middle Ages, 950–1350* (Englewood Cliffs, 1971).

²⁴ G. Ohlin, 'No Safety in Numbers: Some Pitfalls in Historical Statistics', in H. Rosovsky (ed.), *Industrialisation in Two Systems: Essays in Honor of Alexander Gershenkron* (New York, 1966), 68–90, at 81–4 showed the flimsy evidential basis of the folk theory that population growth drove the expansion of the European economy. The folk theory remains intuitively plausible, given urbanization etc.

Economic development and religious transformation were linked in a highly original way in Alexander Murray's *Reason and Society in the Middle Ages* (Oxford, 1978). One of Murray's key arguments turned on the speeding up of social mobility. To simplify his interpretation: the rise of a money economy led to an increase in the use of cash to purchase church offices – the sin of simony – from powerful secular rulers. That eventually provoked a reaction which opened an opportunity – for men with an education in the burgeoning 'schools' of higher education. Criteria for promotion were needed, and academic achievement was an obvious asset, especially if it went with recommendations from highly regarded 'masters' of theology, specialists in 'scholastic' learning. This in turn encouraged the development of the schools into what we call universities. Thus economic transformation, Church reform and an intellectual revolution, the birth of scholasticism and canon law, were all linked together.

A darker image of transformation in the eleventh and twelfth centuries was presented a generation later by R. I. Moore, who interpreted it as a seizure of power by educated clerics, whose arsenal included stigmatization and persecution of minorities.²⁵ This is not the place to debate Moore's controversial thesis, but it is worth pointing out the convergence from a completely different starting point towards a common thesis: that the medieval West was transformed in the century around 1100. It is also notable that both Murray and Moore integrate religious history closely and causally into social and economic history.

The Year 1000

Moore's interpretation partly overlaps with one proposed by historians (Georges Duby, Guy Bois) less concerned with religious change. Here the argument is that it was around the year 1000 that ancient slavery finally disappeared, to be replaced, perhaps after a short golden age of freedom, by peasant subjection in the form of legal obligations to lords, who ran the territory around their castles, up to the boundaries of the next lord's lands.²⁶ Primogeniture and younger sons are important in this interpretation too, but the latter are envisaged as knights without land, seeking an heiress to give them a household or a lord to employ them.²⁷ These retinues of 'young men' (as unmarried knights of any age were called)

²⁵ R. I. Moore, *The First European Revolution c. 970–1215* (Oxford, 2000).

²⁶ G. Duby, ed., *L'an mil* (Paris, 1967); G. Bois, *La mutation de l'an mil: Lormand, village mâconais, de l'Antiquité au féodalisme* (Paris, 1989).

²⁷ A principal critic of the 'year 1000' thesis has been D. Barthélemy: see e.g. *La mutation de l'an mil, a-t-elle eu lieu?: servage et chevalerie dans la France des X^e et XI^e siècles* (Paris, 1997).

ravaged the lands of the neighbouring lords. The ‘peace of God’ movement was a reaction against the violence.²⁸

The year 1000 is the watershed for some social and economic historians; for religious history, c. 1100 would be the watershed according to John van Engen. The contrasts he delineates are different from the ‘year 1000’ theories just discussed, but his view shares with theirs a conviction that a threshold was crossed between the early and the central Middle Ages.²⁹ His broad and humane essay covers many ‘before and after’ contrasts, of which one may single out the following. The Christianity before c. 1100 was dominated by bishops, whereas afterwards they tended to get squeezed out by the papacy above them and the parish clergy below them in the hierarchy;³⁰ the focus on ‘conversion’ in the early Middle Ages gave way to an ideal of ‘reform’ from c. 1100; and the Eucharist replaced baptism as the primary sacrament in the later period.³¹

Van Engen’s task was to make bold claims, and naturally they provoke some dissent.³² He and the other historians of historical transformations perform a service, however, in combatting the overspecialization which is a bane of the historical profession. The schema of a general rupture, if presented as a simplification open to correction, is one of the best ways of rescuing history from myopic specificity; but it is, however, not the only way, and at best it brings only two adjacent periods within a common frame.

²⁸ This too has been attacked by Barthélemy, ‘La paix de dieu dans son contexte (989–1041)’, *Cahiers de civilisation médiévale* 40 (1997), 3–35, especially 9–10, 15, 16, 17–25, 35.

²⁹ J. van Engen, ‘Conclusion: Christendom, c. 1100’, in F. X. Noble and J. Smith, eds., *The Cambridge History of Christianity*, iii, *Early Medieval Christianities, c. 600–c. 1100* (Cambridge, 2008), 625–43.

³⁰ *Ibid.*, 630; ‘after the year 1100 bishops ceased to play the shaping role in Latin Christendom they had regularly exercised in early medieval Christian societies. This book has evoked a world largely without papacy or parish’ (631). Whether bishops were sidelined is highly debatable: note the argument by I. Forrest, *Trustworthy Men: How Inequality and Faith Made the Medieval Church* (Princeton, 2018) that bishops exercised a tightening control, especially over parish priests, by working with local peasant elites.

³¹ Van Engen, ‘Conclusion’, 633.

³² One example is his belief in the conservatism of early medieval religious attitudes: ‘Even the Carolingian reforms, crucial as they were for European history, advanced in a spirit of “correction”, going back to basics and setting things straight (which, like all such moves, if successful, turn innovative)’ (*ibid.*, 634); but contrast W. Hartmann, *Kirche und Kirchenrecht um 900: die Bedeutung der spätkarolingischen Zeit für Tradition und Innovation im kirchlichen Recht*. *Monumenta Germaniae Historica, Schriften* 58 (Hanover, 2008), 6: ‘Jedenfalls widerspricht schon die Tatsache, das es überhaupt Neuerungen gab und dass die Zeitgenossen dies auch durchaus wahrgenommen haben, der verbreiteten Auffassung vom Rechtsverständnis des (früheren) Mittelalters, wonach man immer bestrebt gewesen sei, das gute alte Recht wiederherzustellen’ – even here, though, the divergence is mainly about emphasis.

Longue durée Patterns

That cannot be said of 'long duration' history, which usually cuts through more than two periods. Two generations ago Fernand Braudel argued for attention to very long-term patterns, 'la longue durée'.³³ Averil Cameron makes a powerful case for its relevance to the periods that concern us:

The sense of the broad sweep, or *longue durée*, of history also lies behind a somewhat different approach . . . Rather than emphasizing the divisions and the breaks both the eastern and the western empires can be seen as belonging to the longer history of Europe and the Mediterranean. This kind of approach also has the advantage of taking our minds away for a while from the over-debated question of the end of classical antiquity and enabling us instead to look at issues like settlement, climate, exchange and political organisation over a much longer period . . . Viewed from this much broader perspective, while there were certainly substantial political changes at certain points (the 'third-century crisis', followed by the reforms of Diocletian, the fragmentation of Roman government in the west, the Arab invasions in the east), none of these in itself fundamentally changed the status quo.³⁴

Longue durée history has been more praised than practised (though Braudel's paradigm of Mediterranean history has had distinguished successors³⁵), and, when practised, this has been predominantly in the field of social and economic history. There is indeed a case for more work on continuities in religious history in the West from late Antiquity onwards.³⁶ Certain obvious themes present themselves: the community of the living and the dead, enduring structures of monastic history such as the preponderance of psalms in collective prayer, the influence of the Old Testament, recitation of psalms (from monastic office to books of hours), centrality of the Mass, communion at the point of death, fasting – the list could continue. It might be objected that *longue durée* history in the realm of ideas tends to pay too little attention to contexts and the different meanings they impart to apparently unchanging thought and practices, but it is possible to combine the study of continuity and contexts.³⁷

³³ F. Braudel, *La Méditerranée et le monde méditerranéen à l'époque de Philippe II* (Paris, 1949).

³⁴ A. Cameron, *The Later Roman Empire: AD 284–430* (London, 1993), 192.

³⁵ P. Horden and N. Purcell, *The Corrupting Sea: a Study of Mediterranean History* (Oxford, 2000). Even if they are writing a history different from Braudel's, it is hard to imagine their book without his. Similarly, A. Abulafia's *The Great Sea: a Human History of the Mediterranean* (London, 2012) focusses more on change, no doubt in reaction to Braudel, Horden, and Purcell.

³⁶ Paradoxically, J. Le Goff, *La naissance du Purgatoire* (Paris, 1981), turns out to be in part an investigation of continuity, though his paradigm remains 'transformation'.

³⁷ D. Armitage and J. Guldi, *The History Manifesto* (Cambridge, 2014).

Pocock's Schema

Longue durée patterns and transformations are not the only ways out of the prison of periodization. A different ideal-type for history and time underlies a modern classic, J. G. A. Pocock's *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, 1975). Pocock argued that a particular set of political ideas, the ideal of free independent republics, tends to flourish in a particular kind of social environment which can reappear at widely different times: classical Athens, Renaissance Florence, seventeenth-century England, eighteenth-century America. The social environment includes an arms-bearing citizenry. Note that this is reoccurrence rather than continuity or even influence. A certain kind of thinking does well in a certain kind of environment. The system of thought may hibernate or semi-hibernate then awake when the climate is favourable again.

The schema works quite well for the history of papal jurisprudence. It will be argued that in the decades around 400 there was a social climate favourable to papal decretal-making, and that there was a similarly favourable climate in the decades around 1200. In 1200 the quantity of papal jurisprudence was much greater, obviously, but it was by no means trivial in late Antiquity. Erich Caspar used the phrase 'age of the decretals' for the early fifth century,³⁸ with justification. The still unsurpassed repertory of canon law sources by Friedrich Maassen lists over 330 papal letters between Siricius (384–98) and Hormisdas (514–23),³⁹ and an individual letter could generate multiple canons with lives of their own. Nobody would deny the qualitative significance of the legislation of Henry II of England in the twelfth century, though it is quantitatively insignificant compared say with eighteenth-century legislation. The second half of the thirteenth century is regarded as a period of great legislative productivity in England, but the quantities are modest compared with later periods.⁴⁰

In some ways these two worlds, late Antiquity and the central Middle Ages, were more similar than either was to the period in between. In both, there was international trade, money taxation, flourishing cities, Christian societies both north and south of the Mediterranean, and

³⁸ E. Caspar, 'Dekretalenzeitalters', in *Geschichte des Papsttums*, i (Tübingen, 1930), 343; cf. *Pfz.* 400, 17.

³⁹ F. Maassen, *Geschichte der Quellen und der Literatur des canonischen Rechts im Abendlande* (Graz, 1870), 240–96.

⁴⁰ The leading specialist on medieval English law, when asked how many royal statutes were made in the thirteenth century, replied that 'it all depends on your definition of a statute. A reasonable guesstimate would I think be around 50' (Paul Brand, personal communication).

a shaky Christian empire. Perhaps more to the point, in both periods the complexity of multiple and fast-evolving religious systems, together with uncertainty about what was or was not essential to Christianity, created demand for papal decisions.

Complexity and uncertainty are key elements for analysis. I will try to show that the multiple religious systems of late Antiquity could not easily manage their mutual interactions: an excess of complexity. As for uncertainties, their content deserves more attention. Except for well-studied high theological disputes, notably about the Trinity and Christ, many of the difficulties felt by late Antique bishops have been treated as trivial or left aside as if in a black box. The black box needs to be unpacked.

‘Conversation Threads’ over Time

A further schema is the idea of a sequence of communications by texts and actions which has definite boundaries as it continues over long periods of time. It is not easy to find an existing a word or phrase for chains of meaningful actions and texts which have a continuous life, and yet evolve in successive environments (unlike the themes of history *à la longue durée*). For want of a better word I will use the term ‘conversation’, or, sometimes, ‘discussion string’, or ‘communication string’, or ‘thread’ for more specific topics – each of these phrases used in a metaphorical sense. I have on the whole avoided the use of ‘tradition’ because that tends to imply an absence of change or evolution. I think these concepts help to capture what Peter Brown does in his *Ransom of the Soul*, which ‘sees the formation of Christian views of the afterlife in terms of a perpetual argument among Christians themselves’.⁴¹ The ‘arguments’ can surely include meaningful actions.⁴² The present study deals with a different, thematically less tightly focussed sort of discussion: the variety of topics about which bishops (above all) asked the apostolic see for answers.

⁴¹ *Ransom*, x. This is different from the study of ‘unit-ideas’, as in A. Lovejoy, *The Great Chain of Being: a Study of the History of an Idea* (Harvard, 1936), because arguments evolve.

⁴² History’s sister disciplines of Anthropology, Sociology, and Philosophy converged on an acceptance that social action is as much infused with thought as are texts, and that communications over time are carried on by both. Max Weber’s idea of ‘Verstehen’, understanding, made exactly this point almost a century ago: see D. L. d’Avray, *Rationalities in History: a Weberian Essay in Comparison* (Cambridge, 2010), 25, with further references. Clifford Geertz’s anthropology is based on the premise that understanding social action and practice means understanding the meanings they embody: see *The Interpretation of Cultures* (London, 1975), *passim*. Cf. also P. Winch, *The Idea of a Social Science and Its Relation to Philosophy* (London, 1958), J. R. Searle, *Making the Social World* (Oxford, 2010), and, for Niklas Luhmann, below, Appendix D: Conceptual Sources.

The First Papal Jurisprudence and Its Reception over the Centuries

The themes are those we meet in the subset of the earliest papal jurisprudence which became standard elements of the canon law tradition. The aim is to explain the origins of this jurisprudence and trace its influence and transmission: the chain of social communication from the fourth to the mid-thirteenth century. The history of the first papal jurisprudence's subsequent reception is a part standing for a wider whole, a synecdoche, or rather a synecdoche within a synecdoche. Just as papal history in general can serve as a synecdoche for medieval European religious history, the reception of the first papal jurisprudence can serve as a synecdoche for papal history. Medieval papal history *tout court* is much too large a subject to tackle except at the level of survey and synthesis. On this level there are (for instance) good recent overviews in English by John Moorhead and Brett Edward Whalen, and in German by Thomas Frenz and Klaus Herbers,⁴³ not to mention earlier surveys. Below the survey surface the bulk of bibliography prohibits any combination of comprehensiveness with long-term in-depth analysis. A bibliography published in 2010 just on thirteenth-century papal history ran to 721 pages (not counting the index etc.).⁴⁴ A burst of recent collective volumes is only the most recent symptom of the extent and depth of interest in papal history.⁴⁵ One can nonetheless capture the general trajectory of its evolution by looking at one strand woven in with many others. The hope is to do this by tracing the reception history of the first decretals.

The decretals for the most part directly affected the clergy rather than the laity, because a bishop had real power over the clergy, who depended on him, and usually it was the bishop who asked for papal responses in the first place. Thus, the bishop had the motive and the power to implement the answers. The laity would be affected too, however, insofar as the

⁴³ J. Moorhead, *The Popes and the Church of Rome in Late Antiquity* (London, 2015); B. E. Whalen, *The Medieval Papacy* (Basingstoke, 2014); T. Frenz, *Das Papsttum im Mittelalter* (Cologne, 2010); K. Herbers, *Geschichte des Papsttums im Mittelalter* (Darmstadt, 2012).

⁴⁴ A. Paravicini-Bagliani, *Il papato nel secolo XIII: cent'anni di bibliografia 1875–2009* (Florence, 2010).

⁴⁵ E.g.: W. Hartmann and K. Herbers, *Die Faszination der Papstgeschichte: neue Zugänge zum frühen und hohen Mittelalter* (Cologne, 2008); J. Johrendt and H. Müller, *Römisches Zentrum und kirchliche Peripherie: das universale Papsttum als Bezugspunkt der Kirchen von den Reformpäpsten bis zu Innozenz III* (Berlin, 2008); J. Johrendt and H. Müller, *Rom und die Regionen: Studien zur Homogenisierung der lateinischen Kirche im Hochmittelalter* (Berlin, 2012); K. Herbers, F. López Alsina, and F. Engel, *Das begrenzte Papsttum: Spielräume päpstlichen Handelns. Legaten – 'delegierte Richter' – Grenzen* (Berlin, 2013); T. W. Smith (ed.), *Authority and Power in the Medieval Church, c. 1000–c. 1500* (Turnhout, 2020).

questions related to the rituals which were indeed administered by the clergy but which structured the religious lives of the laity. For example: the clergy administered baptism, but they did not baptize clergy. Whether baptism could be administered at times other than Easter and Pentecost was a matter for the whole community. By the end of the period studied in this book the clergy category had become enormous, because of the attractions of becoming a cleric in minor orders, with the legal exemptions and tax breaks that it entailed. A later chapter deals with the application to clerics in minor orders c. 1200 of papal jurisprudence from late Antiquity.

In late Antiquity the starting point of the system of papal jurisprudence can be traced back to the late fourth century,⁴⁶ when a hiatus in imperially directed conciliar activity in the Western half of the empire left a need or demand for a ‘helpdesk’, as it were. There was a demand for resolution of a host of uncertainties arising from the evolution of late Antique Christianity and coordination of the multiplicity of Christian subsystems which continued to evolve, creating new complexities as they interacted. Bishops far from Rome turned to the apostolic see to get the kind of guidelines previously produced by councils. The Roman imperial rescript system provided a model. To understand the origins of papal law we need to look at the complex interactions of clerical, ritual, penitential, monastic, and Christian imperial systems which created demand for papal law.

In the course of the fifth century, later bishops of Rome clearly were influenced by responses from the first half-century of papal jurisprudence (from Siricius I to Celestine I, d. 432) when replying to similar questions. From Leo I (440–61) to Gelasius (492–6) there is a lot of apparent repetition of those earlier rulings, because previous decretals were not necessarily easy to access, even if they were being passed around unsystematically from diocese to diocese, as seems likely. Leo and Gelasius, together with the bishops of Rome from Siricius to Celestine I, are especially prominent in the subsequent transmission of papal responses.

By the sixth century, canon law collections containing papal decretals were being copied: two widely diffused collections, the *Quesnelliana* and *Dionysiana*, began to meet the demand for papal decretals. We have to examine the process with a textual critic’s eyes but need also to see it as social communication, a process. The transmission was not organized by

⁴⁶ In addition to my *Papal Jurisprudence, c. 400: Sources of the Canon Law Tradition* (Cambridge, 2019) (*Pfjc.400*), and ‘Half a Century of Research on the First Papal Decretals (to c. 440)’, *Bulletin of Medieval Canon Law* n.s. 35 (2018), 331–74, see B. Neil, ‘Papal Letters and Letter Collections’, in C. Sogno, B. K. Storin, and E. J. Watts, eds., *Late Antique Letter Collections: a Critical Introduction and Reference Guide* (Oakland, 2017), 449–66.

the papacy. We need to reflect on the reasons why people chose to copy canon law collections containing papal legal decisions.

There was a diminishing need for new ones precisely because a body of papal jurisprudence was now increasingly easy to consult. Furthermore, in the sixth century there was also a certain *froideur* between Rome and many Western ecclesiastical intellectuals because of the patchy record of the papacy in defending what they regarded as orthodoxy (as it would indeed become) in the so-called ‘Three Chapters’ controversy.⁴⁷ Furthermore, local synods became frequent and confident, meeting the need for rules, and expanding the remit of Church law to include more aspects of lay life.

Meanwhile, the meaning of the first papal laws changed when arranged systematically rather than chronologically. Over time, moreover, their role became more symbolic as the gap between them and social practice widened. Their impact must also have diminished as they were overgrown within the evolving canon law genre by different kinds of texts, from patristic writers and penitential handbooks. One can, in fact, distinguish three canon law ‘conversations’: the inclusive one with patristic material; one that is confined to rulings by councils and popes, but includes topics like Christology; and a tighter genre, also consisting only of conciliar and papal canons, but without the Christology, focussing on what was lawful and unlawful.

Papal decretals and the tight, less inclusive genre never lost their high profile. This was partly thanks to Charlemagne. He helped an updated version of the *Dionysiana* to become the dominant religious lawbook, and he also cited early papal decretals – naming their papal source – in one of his own most prominent pieces of legislation, the *General Admonition*. Probably without intending it, Charlemagne became a prime propagandist for the papacy as source of law, and an amplifier for the papal jurisprudence of late Antiquity.

Then, before the Carolingian order ended, the first papal decretals were spread far and wide because they were included with the corpus of forgeries called ‘Pseudo-Isidore’, the role of which in transmitting genuine letters cannot be too strongly emphasized. Furthermore, the genuine papal letters from late Antiquity were models for the fake papal letters forged with some skill, probably at the abbey of Corbie.

In the eleventh century, a revolutionary religious ‘reform’ movement gathered momentum. A provocation may have been the ready availability

⁴⁷ For a recent collection of essays, see C. Chazelle and C. Cubitt (eds.), *The Crisis of the Oikoumene: the Three Chapters and the Failed Quest for Unity in the Sixth Century Mediterranean* (Turnhout, 2007).

of an old law which patently contradicted social practice. The source of the contradiction was not so much moral recidivism – ‘abuses’. This was not simply a question of ‘corruption’ and of ‘reform’ as a response. The problem was the ruralization of dioceses over the previous early medieval centuries. The old canon law could not easily be fitted into the eleventh- and twelfth-century ecclesiastical systems, dominated north of the Alps by huge country dioceses rather than tightly knit urban clerical communities. Early papal jurisprudence had evolved in a social setting alien to that of the period around 1000. The transmission of the first papal laws was a window into the very different and not easily understandable world of late Antiquity.

Interestingly, reform compilations of law, though selective and propagandistic, did not airbrush out the ancient papal laws that posed problems. Instead those strange laws served as a stimulus to thought. In the mid-twelfth century, the *Decretum* of ‘Gratian’ (there were probably two main authors⁴⁸), which became the standard canon law reference work, did indeed grapple with the contrast between the world reflected in the first papal laws and the laws and practices of its own time.

So did commentators on Gratian. The new canon law professionals had plenty of other authoritative texts to think about, from councils, the Fathers, and penitential handbooks. Nonetheless, thanks to Charlemagne and Pseudo-Isidore, the papal element in tradition was quantitatively too important to be ignored. Instead, the old decretals offered a ‘software’, so to speak, that could be copied and which developed in a new and bigger wave of papal decretals, which flooded professional canon lawyers with new material. The second age of papal decretals was arguably a response to demands similar to those which had produced early papal jurisprudence, and they had the old decretals as a model. In the end, the new and the old decretals were drawn into the same conversation, as the standard gloss on Gratian discussed the old laws and the new ones in conjunction.

It will be argued that the legacy of the first decretal age to the canon law tradition could have crucially affected the character of the second decretal age, or rather, that the latter need not have been a ‘decretal age’ at all, though it would surely have still seen a flowering of canon law and the emergence of a class of legal experts, as in Islam. The development of Islamic Shari’ah law makes a suggestive comparison and contrast here.

Islamic law initially saw developments analogous to the first decretal age, but the shoots were too tender and sparse to survive. From about the

⁴⁸ A. Winroth, *The Making of Gratian’s Decretum* (Cambridge, 2000). Nonetheless, for simplicity’s sake I use the name Gratian for the compiler of the *Decretum* in its final form.

ninth century CE, Shari'ah law has been in the hands of a class of qualified experts, the muftis. After the early Islamic centuries, muftis were professionally trained and qualified, like canon lawyers from the thirteenth century, *mutatis mutandis*, and, as with canon lawyers, the academic training intersected with the world of legal practice: religiously qualified specialists could become *qadis* (judges), and *qadis* who were not themselves qualified could be expected to have a mufti as an adviser. Like canon lawyers (and Common Lawyers), they reasoned by analogy from case to case.⁴⁹ They did and do not always agree,⁵⁰ but neither did canon lawyers come to that, and muftis tended to achieve a fair degree of consensus behind the disagreements, as do modern academic scientists through their processes of peer review and reputation formation.

The muftis did not acquire this collective authority immediately. First came the process of professionalization, leading to a network of madrasas and a system of qualification for legal experts. Once that stage had been reached, according to an interpretation which has met with widespread if not universal assent,⁵¹ the previous system was silently abandoned. It had been similar in some ways to the papal system, in that religious legal authority was vested in the caliph.⁵² The couple of centuries in which caliphs were the authoritative source of legal interpretation were, so it has been plausibly argued, airbrushed out of collective memory by the muftis, the *'ulama* as they are collectively called, when they took over the role.

Even allowing for deliberate forgetting, however, there can be no question of quantitative comparability between the jurisprudential output of early caliphs and of fifth-century popes, if only because the caliphs were conquering much of the Mediterranean world and had their hands full. So far as we can tell, the caliphal rulings of the early Islamic centuries were a much less rich resource than the ancient papal jurisprudence which was still at hand, an attractive paradigm for a new decretal age.

Without that first decretal age, one could well imagine a 'classical canon law' of the twelfth and thirteenth centuries without a living lawmaker, along the same lines as academic Roman law. The university training and the

⁴⁹ W. Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge, 1986), 115.

⁵⁰ There were several main schools of Sunni law: see *ibid.*, 150–77, and C. Melchert, *The Formation of the Sunni Schools of Law, 9th–10th Centuries C.E.* (Leiden, 1997), but these were not like separate religious sects, and relations between them were on the whole eirenic.

⁵¹ P. Crone and M. Hinds, *God's Caliph: Religious Authority in the First Centuries of Islam* (Cambridge, 1986). Cf. Hallaq, *Origins*, 63: 'caliphal law also acquired a religious sanctity by virtue of the fact that Caliphs were God's and Muhammad's deputies on Earth', and J. A. Nawas, *Al-Ma'mun, the Inquisition, and the Quest for Caliphal Authority* (Atlanta, 2015), 53–5.

⁵² For the foregoing, see D. L. d'Avray, 'The Stages of Papal Law', *Journal of the British Academy* 5 (2017), 37–59, at 47.

professionalization of lower courts could have happened without the papacy. A price to pay might have been consistency over Latin Christendom. Medieval Roman law was a training, a mode of thought, and a *mise* of concepts and techniques, but in the secular sphere there were multiple real jurisdictions with their own traditions. Again, in cases where the line between human ‘positive’ law and divine law was not so clear, a system run by legal professionals alone had a legitimation problem when doctors of canon law disagreed. But they would no doubt have managed, as medieval medical doctors did. As it was, specialists in canon law found plenty of satisfaction – even, it has been suggested,⁵³ an ‘aesthetic pleasure’ – in working with papal decretals, and not least in analysing together papal judgments from both decretal ages.

Conclusion

Periodization enables but constrains research. This chapter has looked at ways of transcending period boundaries. To position oneself on a boundary is one good way. Like a ridge-walker, one can survey two valleys at once – but only two. Another way is to look for deep continuities. Here, however, additional schemas have been proposed: the re-emergence of a half-submerged system with the recurrence of the conditions that gave rise to it originally, and, above all, the evolution of a sequence of communications (as opposed to a constant idea) like a conversation, from its origin through its twists and turns over many centuries.

The history of the first papal jurisprudence’s reception over time can be a ‘part for the whole’, a synecdoche for the changes in history of Western Christianity. Evidently, early papal jurisprudence is not the only possible candidate for this method of bridging the gap between periods at a research level (rather than by a survey or synthesis). The key thing is to focus on a form of life which evolves through the centuries and well into the medieval period, while interacting in non-trivial ways with the world around it, to avoid tunnel history. Bishops in any one major region (say Southern France) would fit the bill. The episcopate in Europe as a whole would be too large and diffuse a theme. The form of life studied in this book has the advantage of combining manageability with precision.

In new contexts, old systems evolved and changed. That might, but did not necessarily mean that they ended up quite different from their first state. Another general model is that the meanings of old social systems expand as their horizons merge together with the mental horizons of new social situations. These methods aim to subvert the apartheid of periodization.

⁵³ By the Cambridge University Press clearance reader of this book.

The next chapter will focus on those features of the late Roman world in the West which were the environment of early papal jurisprudence. These include: the sheer number of clerics and monks, the heterogeneity of these two Christian elites, their relation to existing secular legislation on status and occupations, inconsistency in ritual systems, contested meanings of baptism and its place in the religious year, the symbolic significance of time, the disruption to society of the barbarian invasions, the two Christian systems of marriage – episcopal and imperial, and the spatial structures of empire and church. Largely descriptive, the chapter attempts to elucidate two overlapping sources of tension which played a part in generating the first papal jurisprudence: the multiplicity of semi-autonomous evolving systems, and uncertainty about where or whether to draw a line between non-negotiable principles and legitimate variation.