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FLESH AND BLOOD VS RIGOR OF JUSTICE**

THE CONCEPTS OF JUSTITIA AND AEQUITAS
IN "PROCESSUS SATANAE CONTRA GENUS HUMANUM"

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Abstract: A fifteenth-century treatise, *Processus Satanae contra genus humanum*, is a peculiar artefact of late medieval culture as it blends theological, theatrical, and juridical elements significant for the period. Intended as a manual for law students, it provided an idealized example of an ordinary court hearing. According to the plot, the Devil files a complaint against the entire humankind and demands that it returns to his possession. He sends a demonic representative to defend his interests, while the Virgin Mary assumes the role of humankind's lawyer. The trial is presided by Jesus Christ the judge. After an exhausting debate, the forces of good win the case. Underneath this entertaining and grotesque façade lies a serious discussion about different types of justice and their importance for a real-life judge, lawyer, or plaintiff. The author of *Processus Satanae* distinguishes two types of justice—*justitia* and *aequitas*. *Justitia* refers to rigorous justice of human law, while *aequitas* refers to righteousness coupled with mercy. The latter comes directly from God; without *aequitas*, *justitia* becomes rigid law that has no real power in Christian sense. Since the Devil and his servant rely exclusively on *justitia*, as they do not know misery and empathy, they ultimately lose the case. In this way, the treatise warns law students against following the letter of law blindly and without regard for individual circumstances.

Keywords: the Image of Satan, Civil Law, Canon Law, The Concept of Justice, Aequitas, Justitia.

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The peculiar treatise *Satan's Process Against the Human Race* (*Processus satanae contra genus humanum*)¹ — part of a well-developed literary tradition — was actively reproduced in manuscript and later printed form and disseminated in large numbers throughout Central and Western Europe. *Processus Satanae* enjoyed long-lasting popularity and was read throughout Europe up until the seventeenth century (Pasciuta, 2015: 14). It even

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¹I am very grateful to my undergraduate advisor Professor Alexander Marey for his academic advice and continuous support. This essay is a shortened version of my undergraduate thesis written under Professor Marey's guidance.

found its way into the private library of the Swiss Reformation leader Huldrych Zwingli (Urs & Weidmann, 2019: 94). Zwingli apparently picked up his copy — also attributed to Bartolo da Sassoferrato — at the library of the Grossmünster Abbey in Zürich and seems to have read at least the beginning of it, judging by his markings.

The primary source I worked with for this research is a printed edition, dated 1495 and published in Leipzig by the publishing house of Gregor Boettiger. This edition belongs to the so-called literary tradition of *Satanprozessen* or *Satan's Processes*, which includes various texts with a similar plot. The earliest manuscripts date from the middle of the 12th century (Pasciuta, 2015), and treatises on this story then begin to be rewritten and republished more and more often. Further dating can be done according to the classification of the texts of the tradition proposed by the German researcher Carmen Cardel de Hartmann (Hartmann, 2007: 306). All publications are divided into three groups according to the author and the dates of creation. The first group consists of the *Advocacia* texts (*Advocacia-Fassung*) that were composed by the French bishop Guido de Collemedio and date back to the middle of the 13th century. The texts of the second group are named after the main antagonist — the demon *Mascaron* (*Mascaron-Fassung*). This version of the plot first appears in the work of the Dutch author Jacob van Maerlants and dates back to 1262. The third group of the *Processus Satanae* are considered to be written by the Italian jurist and professor of law Bartolo of Sassoferrato (*Bartolo-Fassung*) and date to Bartolo's lifetime (1313/4–1357).

The authorship of the treatise poses a problem. There is no certainty among scholars on whether this treatise was written by Bartolo himself or was signed with his name and wrongly attributed later. The dispute on the authenticity of Bartolo's authorship is ongoing among researchers of *Processus Satanae*. Pasciuta is skeptical of this attribution, however she notes that the debate about the authorship remains unresolved.² However, the very fact that this small work was attributed to a respectable and

²Quaglioni is of the opinion that Bartolo is the authentic author, citing the article by Robert Jacquine, in which it is shown that there are no reasons to doubt the medieval lawyer's authorship at the moment; see Diego Quaglioni, "La Vergine e il diavolo. Letteratura e diritto, letteratura come diritto," (Quaglioni, 2004: 39–55). Pasciuta, on the contrary, is inclined to believe that this treatise had an anonymous author who was identified as Bartolo several centuries later. The rewriting and reissue of it both in Latin and in vernacular languages confirms the interest of medieval readers in this treatise. See Pasciuta, 2013; Pasciuta, 2015: 13, 56–57.

well-known medieval jurist speaks of the text's popularity, as it might have been an attempt to see an authoritative personality behind this treatise. The desire to legitimize this text could have helped to promote it among readers or to explain and consolidate its already existing popularity.

The plot of *Processus Satanae* revolves around a heavenly trial which begins with the Devil filing a lawsuit against humankind and demanding that it be returned to his possession. The Virgin Mary is the advocate for humankind while the Devil and his minions elect a demonic representative. The debate takes place before the supreme judge, Jesus Christ. This curious plot arose at the intersection of three vectors of Western medieval culture—scholastic theology, jurisprudence, and popular culture. The image of the confrontation between the forces of good and evil in a grotesque trial stems back to medieval mysteries. Legal details, many references to the codes of civil and canon law are a nod to the Italian legal tradition and signify a possible purpose of this treatise. According to Pasciuta, *Processus Satanae* was intended as a study manual for legal students (Pasciuta, 2015: 14). The treatise employs legal vocabulary to explain the subtle philosophical distinction between the concepts of *aequitas* and *justitia*, both of which play an important part in jurisprudence and in the theological understanding of ethics. Lastly, the author of the treatise sees the figures of the Virgin Mary, Christ, and the Devil as major actors in the sacred history of Christianity, even though they participate in a secular lawsuit.

This plot gives these characters an opportunity to meet face to face in a heated debate. Here the Devil ceases to be an abstract monster depicted by medieval artists, he appears in court and logically argues his case. The heavenly court itself appears to be quite secular and not at all similar to the fabled and terrifying Last Judgment. The Christian functions of these figures is translated into legal roles. At the trial, Christ assumes the role of the supreme judge, the famous protectress of humankind, the Virgin Mary, becomes its legal advocate, and the Devil himself becomes a plaintiff who tries his best to win the case and possess humankind once again. Thus, the events of the heavenly trial in many ways becomes paradigmatic for the culture of the Late Middle Ages.

In this essay, I explore the legal side of the trial, especially with regards to the concepts of *aequitas* and *justitia*. What were the functions of these concepts according to the author of *Processus Satanae*? How did the theological-liturgical format correlate with the legal core of the plot? How did the characters of the treatise treat these ideas?

I should briefly mention that this work presents only a part of the findings from my BA research which I completed in 2016 under the guidance of Professor Alexander Marey. Shortly after the completion of my thesis I learnt that Pasciuta — a professor of medieval law at the university of Palermo, whose article I cite in my work — had published a book on *Processus Satanae*. I was able to get a hold of her book a year later to compare my own findings and translation with hers. However, before this research came to print, I worked with my own translation of the treatise from Latin to Russian. The present paper is based on the translation I completed during my undergraduate studies. I have also translated parts of the treatise into English for the present article.

THE PLOT

The treatise begins with the story of humankind’s fall and redemption through the sacrifice of Jesus Christ. After losing his control over humankind, the Devil decides to win back his “ancient right” or *ius antiquus* in court. The hearing is to be held at the heavenly court, where the Devil cannot enter since he is eternally bound to his hellish realm. Therefore *infernal malice* holds a council in Hell and elects one especially astute demon to go into Heaven and act as the Devil’s representative.

Upon reaching Heaven, the demonic representative attempts to relate his master’s woes to Christ before the trial has even begun, but Christ refuses to listen to him as He reminds the demon that according to Canon Law the judge can hear points of litigation only during the trial.³ The demon then implores the judge to make the entire humankind appear in court in three days as the trial can start only after the appearance of both parties. He also shows his official mandate (*procuratorium mandatum*) which officially sets the process in motion.⁴ Christ states that the trial will happen in three days, on Good Friday. The demon tries to dispute the date, as according to *legis Iuliae* a trial held on holiday is not legitimate, but Christ sees right through his tricks — the demon clearly wants to leave humankind no time to appear in court and thus automatically win the case. The judge powerfully

³Sassoferrato, 1495: 4: Tu scis quod merita causarum partium assertione panduntur ut.C.Si per vim vel alio modo.l.fi.in.fi.et extra de accu.c.Qualiter et quando.l.ii.Unde a te nullatenus volumus informari.

⁴Ibid.: 3: Et ecce procuratorium meum vel mandatum quod coram vobis allego et produco cum alias admitti non debeo.l(ege).i.C(odici).de procu. et extra.de procu.c.i.

states: “We establish the laws and give authority to the laws, and not vice versa, so We demand that the call [to the trial] stays put...”⁵

The demon returns to his hellish colleagues to relate Christ’s words and to plan, while the divine judge asks archangel Gabriel to sound his trumpet to call humankind to court. When the day of the trial comes, the demon shows up on time, but the judge makes him wait the whole day for the arrival of humankind. When no one comes, the demonic representative is ready to celebrate his untimely victory, however, Christ postpones the trial for one more day “as righteousness itself advises”:⁶ as he is able to do it and “righteousness is preferred over rigor more often”.⁷ The demon has to return to Hell with the bad news, and the council of infernal malice says that there is nothing to do but wait for tomorrow.

Meanwhile, there is a commotion in Heaven as the saints pray to Jesus Christ to save humankind as it cannot possibly appear in court in its entirety. Luckily, the Virgin Mary hears the cries in Heaven and publicly declares that she will act as humankind’s defender in court.

The next day the demon and the Virgin Mary arrive at court. Christ tells the demon to plead his master’s case against humankind. However, the demon refuses to relate his case as he does not see the side of the defendant present in court. The Virgin Mary responds that she does not see the side of the claimant either, as the Devil is not present either. To that the demon presents a legal document — a mandate or *procuratorio* — which certifies his role as a legal representative in court. The contents of the document are as follows:

The demon responds: the part of the plaintiff is established, of course, by my mandate [*procuratorio*], already presented above, produced and written by that hand of a public notary in the year 1301, of the first indiction, in the presence of Rufinus of Maccabee and Cerbaro and many others, invited and called to [witness] the representative document.⁸

⁵Sassoferrato, 1495: 4. Respondet Hiesus: Nos iura condimus et auctoritatem damus iuribus non iura nobis quare volumus citationem valere ut Insti.de iure natu.gen.(de iure naturali et civili)et ciui.§.Sed quod principi.

⁶Ibid.: 6: Volumus ipsa equitate suadente presentem diem in diem crastinam prorogare quam tibi et humano generi assignamus ad comparandum legittime coram nobis.

⁷Ibid.: Et equitas sepius prefertur rigori placuit Codici de iudiciis.

⁸Ibid.: 8: Respondet demon: Fundata est pars actoris sicut ex procuratorio meo iam super allegato et producto scripto manu Notarii publici Anno domini M.CCC.L.indicti primi et cetera presente Rafino de Machabeto et Cerbaro et quampluribus aliis adhibitis rogatis et vocatis ad cartam procuratorii.

Now it is the Virgin Mary's turn to defend and establish her role in court. The demon once again states that he cannot see the defendants. When the Virgin Mary states that she represents humankind in court, the demon turns to the judge to dispute the legality of this arrangement. He states that, first, the Virgin Mary is a woman and thus is not eligible to be a lawyer according to Justinian's Digest (The Digest of Justinian, 1985: 79.), and second, she is the mother of the judge and so could make him biased.⁹ The Virgin Mary refutes both statements, as she states that women are allowed to be in court on behalf of those worthy of misery, orphans, and widows, according to both Canon and civil law. And who is more worthy of misery than defenseless mortals? She is also part of human race and thus she sees it as her duty to defend her own kind during the trial.

After hearing both sides, Christ allows the demon and the Virgin Mary to start the trial. The demon makes the first move and announces his master's case (at this stage he begins to call himself the Devil). He argues that once he had all of humankind in his possession and was robbed of this right, clearly alluding to the Harrowing of Hell. Thus, he asks that he be reinstated as the rightful owner of sinful mortals. The Virgin Mary objects and accuses the demon (and the Devil) of lying, as his right of possession was never legitimate to begin with. He and his minions were mere wardens of Hell and did not own humankind. The true possessor of humankind is God who has created all living things; hence the Devil's case is built on a false premise and his claim must be rejected.

The demon, annoyed, takes out the Bible and reads the lines of Genesis 2:16–17:

And the Lord God commanded man, saying, Of every tree of the garden thou mayest freely eat. But of the tree of the knowledge of good and evil, thou shalt not eat of it: for in the day that thou eatest thereof thou shalt surely die.

He states that Adam and Eve willingly breached their agreement with God and thus were damned and fell into the Devil's hands. The Virgin Mary then responds that the demon has conveniently left out the part about the Devil's role in the Fall—he had deceived Adam and Eve and made them disobey their Creator. Thus, he was an accomplice in their crime and cannot benefit from this case. The demon then addresses Christ directly and states that he is lawfully present in court, despite the Virgin Mary's accusations.

⁹Sassoferrato, 1495: 9: *Nam si matris vestre offitium admitteretur scilicet ut advocare posset pro humano genere possit delevi mater vestra vos Hiesum filium suum ad suam partem trahere et sic ius et iustitia suis terminis totaliter deviant.*

At this point, something peculiar happens. The Virgin Mary states that the Devil's demonic representative has been playing a foul game this entire time. Although the demon was elected at the council of infernal malice to be the sole representative of the Devil in court, he let in other demonic helpers into court in his guise.¹⁰ Moreover, the Devil himself was able to appear in court under the mask of his minion.¹¹ This is a clear breach of the trial protocol, and the demon must be denied further hearing. After finishing her impassioned speech, the Virgin Mary begins to cry "following the fragile female sex, always fearing the destruction of humankind."¹² At this point she addresses Christ purely as a mother and a saint, reminding Him that the Devil was behind his horrendous death on the cross. She also reminds Christ that she is His mother who protected and raised Him and who cares about humankind deeply. She even asks emphatically that her name be struck out of the book of saints if Christ decides to concede to the Devil's arguments. This emotional outburst turns the course of the trial, and Christ orders the demon to leave the court. The Devil's demonic representative is enraged and makes another attempt at persuading the judge by stating that the Virgin Mary is extremely biased, and "flesh and blood" made Christ deviate from the path of true justice.¹³ Now it is the Devil himself who speaks through the mouth of his minion. He tells Christ that his official titles include "the prince of this world" and "the prince of impious sinners." Since humankind belongs to this world and is sinful, it belongs to him, while Christ possesses only those who are virtuous and pious. This argument seems to be so persuasive that the judge turns to the Virgin Mary for reaction. However, she is unwavering and argues that the Devil has done a lot of evil and so cannot be seen as an innocent victim. The Devil then says that since he was cast out of Heaven without any notice, it would be doubly unfair to leave humankind unpunished since Adam and Eve were warned about the tree of knowledge. The Virgin Mary states that the Devil was an angel and was created without imperfections, unlike human beings, and

¹⁰Sassoferrato, 1495: 14: Sic est in proposito quod licet demoni plura competant remedia ad prosequendum id quod petit quod tamen non fateor ei competere de iure.

¹¹Ibid.: Sic autem est in proposito et fuit quod demon auxilium ordinarium intentavit et ipsum in iudicium deduxit ut supra tetigi et in eo succubuit ergo amplius audiri non debet.

¹²Ibid.: ... sequens mulierum sexum fragilem semper timens subversionem humani generis...

¹³Ibid.: 15: Demon autem iracundia motus dixit ad iudice: Domine Hiesu Criste vos non estis iustus iudex bene video et clare cognosco quod caro et sanguis uter facit vos a iustitie tramite deviare arguit extra de prebendis caput Grave circa principem et viiii.q.i.caput Mayses ea.cau.et.q.i.

thus there is no excuse for the his sin: “Indeed, human beings did not have such knowledge of truth because of the body which burdened the soul.”¹⁴

The Virgin Mary presses her divine Son to put an end to the Devil’s lies and trickery and set humankind free. At this point, even Christ asks his mother to let her opponent speak for himself, as she talks over him and throws incessant accusations:

Then Jesus the judge said: Oh, mother, let him speak because it is rude to judge someone or respond [to them] without looking at the entire matter, as in The Digest of Justinian, 1985: 13¹⁵

The Devil states that the circumstances of humankind’s crime against God are not as important as the crime itself, which must be punished according to justice.

The Virgin Mary reminds Christ, that he is both human and God, and understands that humankind sinned due to their imperfect flesh which caused its obliviousness or madness. When the demon tries to get back at the Virgin Mary, Christ finally snaps and silences the Devil’s representative. He states that since He has already died for humankind it would be unjust to persecute human beings again for the same sin and instead, He will wait until the day of the Second Coming to pass the final judgement. The Virgin Mary adds that humans were created in God’s image and thus it cannot belong to the Devil.

The verdict is reached; the Devil’s case is dismissed. The Archangel Gabriel invites both parties to the court on Easter day, and Christ announces the freedom of humankind, “Indeed, it follows according to the most sacred legal writings of truth, which we want to follow.”¹⁶ The treatise ends with the announcement of St. John the Evangelist revealing himself to be the public secretary and court scribe. He enumerates some of the saints who bore witness to the process and signs the date of the trial: “In the year of the Lord 1350, in the first indiction, on the sixth day of the month of April.”¹⁷ The last sentence reveals that the author of the treatise is the great lawyer Bartolo himself.

¹⁴Sassoferrato, 1495: 18: Nam enim homo talem certitudinem non habuit propter corpus quod animam aggravabat.

¹⁵Ibid.: 20: Tunc dixit Hiesus iudex: O mater dimitte ipsem dicere quia incivile est nisi toto negotio prospecto aliquid iudicare vel respondere ut Digestorum de legibus lex Incivile

¹⁶Ibid.: 22. Humanum generis hac sententia diffinitiva absolvimus et ab impetio ne procuratoris nequitie infernalis reddimus absolutum. Cum hic consonet sanctissimis scripturis iurisce veritatis quam in hoc sequi volumus.

¹⁷Ibid.: 23: Anno domini M.CCC.L indictione i die vi mensis aprilis.

This concludes the story of the heavenly court related in the *Processus Satanae*. The plot gives rise to many questions. How are the legal and theological elements balanced in this story? Why does the Virgin Mary see it fit to cry in order to gain the judge's favor? How is it possible for the Devil to show up in court if he is bound to his hellish realm? What are the different sorts of justice that the litigating sides appeal to? Why does the Devil ultimately lose the case even if he and his minion provide sound arguments? Finally, what was the function of this amusing and bewildering text? I address these questions below.

THE DISTRIBUTION OF POWER

I begin my analysis by looking closely at the legal roles each side plays in the heavenly court. It seems fit to begin with the Devil, the council of infernal malice, and the demonic representative, since the treatise is named after them.

As we have seen, the interests of the Devil in the heavenly court are represented by the demon-procurator, chosen by the council of infernal malice for his inquisitiveness and ingenuity. At first glance, it may seem that we are faced with two completely different characters. Each of them plays a distinct role in the development of the plot: the Devil is the plaintiff, who must remain in his hellish domain, while one of his demons becomes his representative and goes to Heaven on his master's behalf. However, as the process progresses, the demon and the Devil seem to merge into one entity, and the Devil himself begins to speak *through* his representative. The Virgin Mary and Christ notice this and address the demon as if the lord of the underworld himself were in front of them. Not only does the demon represent his master's interests in court, but also gives him a chance to enter the court in his guise. This questions the nature of the demon and his relationship with the Devil. Since, if they are two different entities, the appearance of the Devil in the heavenly court should be considered a legal fiction (in an ordinary trial, when one addresses a representative, it is assumed that it is the plaintiff or defendant who is addressed). Conversely, if the demon is, in fact, consubstantial with the Devil, then the situation must be addressed in theological and not legal categories. Let us now turn to the relationship between the Devil and demons, as they were perceived in the culture of the European Middle Ages.

THE FALL AND RISE OF THE DEVIL:
THE DEVIL AND HIS MINION IN THE HEAVENLY COURT

First, we should revisit the plot of *Processus Satanae*. The demon chosen by the council of infernal malice goes to Heaven to begin the lawsuit. He refers to himself as a representative or a procurator of the Devil and speaks on his behalf. In order to make his presence at the trial official, the demon provides a document or *mandatum* declaring his role as an attorney. This document was written and sealed on earth in the year 1301 in the presence of witnesses, Rufinus Maccabeus and Cerbaro.¹⁸ The contents of the document are of little interest to the participants of the trial, since its mere presence is enough. According to Gurevich, the physical existence of a document was often more important than its contents for a medieval person (Gurevich, 1981: 186). The document was deemed to have legal power only if a sufficient number of—usually local—witnesses were present at the moment of signing and sealing. Their presence during the signing of a legal document served as evidence of its validity (*ibid.*: 187). Thus, the demon proves his right to represent the Devil in court in accordance with the laws of the human world. Only the demon can be present in court according to his legal documents. He must rely on purely legal norms, while the Virgin Mary ensures her right to defend humankind by theological means—she can appeal directly to her and her Son’s authority in Heaven.

The demon-representative has a distinct physical appearance which makes him more tangible than his evil master. Obviously, the demon’s appearance is described purely negatively: he appears before the judge “humble in appearance and impudent in spirit,” trying to hide his evil nature, but he fails to outwit the Virgin Mary, who immediately sees how terrible the demon looks and acts. The demon grinds his teeth and contorts his face when angered and has a pouch for storing documents hanging around his neck. He, as a fleshed-out character, has a distinctive appearance, and is able to perform physical actions, just like Christ and the Virgin Mary.

We know that the Devil cannot be present during the trial. This, however, is contradicted by the demon-representative’s self-identification. At the very beginning of the treatise, he declares: “Lord God, I am that accursed one

¹⁸These are demonic witnesses, as their names suggest: Rufinus is derived from the Latin word “rufus” or “red-haired”—a well-known feature of demonic entities, while Cerbaro seems to derive from the name Cerberus, the hound of Hades.

whose claim against the human race I will file today before you.”¹⁹ Here he confirms his role as a representative while also identifying himself with the Devil. The images of the demon and the Devil become inseparable from one another.

There is also another actor on the side of evil forces — the council of infernal malice that elects the demon. According to Alexander Makhov, demons were seen as ubiquitous and part of a single evil entity, a combination of evil and vices (Makhov, 2006: 247). These ideas about the Devil and his demons stemmed from several medieval beliefs. First, there was a widespread belief in a devilish trinity, or rather, the anti-trinity, which was a perverted analogue of the Holy Trinity.²⁰ This concept appeared first in the writings of the commentators on the Book of Revelation and then found its way into the story of the Harrowing of Hell, where the anti-trinity consists of death, the Devil, and Hell personified (ibid.). In the case of *Processus Satanae* the anti-trinity consists of the Devil, the council of infernal malice as the totality of evil, and the demon-representative.

The image of the anti-trinity is influenced by another popular belief. Makhov mentions the idea of the omnipresent nature of demons — both a strength and a weakness. Paradoxically, demons and the Devil were imprisoned in Hell, but at the same time they could enter the human world tempting and attacking human beings. Many theologians have tried to solve this problem, among them Bede the Venerable. In his theory, rejection from God was considered a true hell, and therefore fallen angels who turned into demons were doomed to experience eternal punishment and suffering wherever they were (ibid.: 180). The author of *Processus Satanae* expresses the same idea as he argues that demons can potentially be everywhere, but the punishment for their sins cannot be lessened just because they are not present in Hell. Thus, this ability to leave Hell allows the Devil himself to enter the Heavenly court.

Both the Virgin Mary and Christ recognize the Devil in his guise. The angels present the demon in court in a following manner:

Oh, protectress of humankind, behold the insidious procurator of infernal malice, damned for his immense pride, which he had while he was among us.²¹

¹⁹Sassoferrato, 1495: 5: Domine deus, ego sum ille damnatus qui habeo hac die conqueri coram vobis contra genus humanum.

²⁰On the concept of anti-trinity see Kaup, 2021: 221–266.

²¹Sassoferrato, 1495: 7: O avvocata humani generis vide versutum procuratorem nequie infernalis damnatum ex eius immensa superbia dum inter nos residentiam fatiebat.

Thus, the image of the demon merges with the image of the Devil. When the demon tries to accuse humans of failing to appear in court, Christ reminds him of how long the path from Heaven to earth is, directly alluding to the Devil's fall. The Virgin Mary acts as if the Devil himself were in front of her, as she points out his deceitful nature, his constant deceptions, and even reminds her Son that the Devil, who caused Christ's suffering, is now in court. Both Christ and His mother understand that the demon is "a vessel" that the Devil can use. The Virgin Mary points to the demon's deception as he illegally let his master into court, even though he can only represent the Devil in court according to his official papers.

The Devil has reasons to enter the court himself, as much is at stake for him. He does not file a lawsuit against Christ, but against humankind, who must collectively answer for their "unlawful" escape from his control. The image of this trial against the totality of humankind is influenced by two important medieval concepts. First, this is a "mock trial," a preparation for the Last Judgment. The process starts in the year 1301 AD — when the witnesses sign the demon's document of representation — and the trial itself happens in 1350 when Christ makes his final decision on the case. Thus, humankind is given another chance to live a righteous life before the Second Coming and its liberation from the Devil's yoke is confirmed. Second, the participation of all humankind in this imaginary trial refers to the ideas of anonymity and equality of every human being in the face of Christ. According to Gurevich, a medieval person is not a separate unit of society, they do not have a clearly defined individuality, but always belong to a greater community. Hence the Devil attempts to lay claim to entire human race and not just individual sinners as he too perceives humankind as a single entity (Gurevich, 1981: 200).

THE DEVIL'S OPPONENTS: THE ROLES OF THE VIRGIN MARY AND JESUS CHRIST

The Devil's opponents play important roles in the plot of *Processus Satanae*. Just like the Devil and his servant, the Virgin Mary and Jesus Christ assume legal roles in court and take on the duties of humankind's lawyer and judge. The forces of good and evil were perceived as connected in medieval theology and popular thought, they were inseparable from one another. Their constant confrontation and struggle (at least until the Second Coming) were central for a medieval understanding of the world and united the events of Sacred history and everyday earthly life.

Those in Heaven and Hell existed in binary opposition and yet were reflections of each other. The evil nature of demons and the Devil was thought of as “not good,” “anti-good” (Cox, 2004: 6). According to Stuart Clark, medieval demonology was created dialectically from what it was not. Hell and its dwellers were perceived as distorted reflections of Paradise with its divine hierarchy. Hence, a peculiar symmetry of Heaven and Hell arises, in which the latter tries to imitate the former, since it does not enjoy an independent existence (Clark, 1997: 83).

The world of *Processus Satanae* is built on this opposition. Christ rules in Heaven and the Devil is the ruler of the underworld. The demon and the Virgin Mary represent the interests of the plaintiff and the defendant respectively. Moreover, their decisions are supported by their entourages: in the demon’s case it is the council of infernal malice, and in the Virgin Mary’s case it is the choir of angels and the army of saints that invite her to court. The terrible weeping and the gnashing of teeth of tormented sinners resound throughout Hell, while triumphal trumpets of angels and music of the divine choir bring joy to Paradise.

Such harmonious symmetry is violated by the demon-representative who is allowed to enter Heaven but only on his own as he becomes the sole representative of Hell there. He is deprived of support and forced to compete with the Virgin Mary who has the whole of Heaven to support her. In this regard, the figure of the Virgin Mary is of particular interest, as she too breaks the mirroring of Heaven and Hell and enjoys a distinct position in the divine hierarchy (Makhov, 2006: 82–83). Due to her dual status as the mother of God and a human being, she was seen as a divine intercessor on behalf of human beings.

One of the main paradoxes of the heavenly process, discussed in particular by Karl Shoemaker, lies in the attitudes and affective strategies employed by the plaintiff’s representative and the defendant’s lawyer (Shoemaker, 2012). The appearance of a female lawyer should raise many questions for a medieval reader. Unlike the well-trained demon, who uses only the laws of civil and canon law and refers to the Bible (albeit often in a facetious manner), the Virgin Mary often uses *ad hominem* arguments, humiliates the demon, refuses to listen to him, interrupts him, and even bursts into tears and emotionally manipulates her Son. Yet she wins the case, although the demon tries several times to appeal to the judge and seek justice. What is the Virgin Mary’s secret and how does she manage to win the trial?

In medieval popular culture, the Virgin Mary was seen as the main protector of believers, a source of mercy and unconditional love.²² Her powers went beyond what was “permitted” by divine justice—Makhov notes that the mother of God could save even a hopeless criminal, provided that they revered her. The Virgin Mary considered every sinner as an individual with their own vices and virtues, her sympathy for sinners could even be seen as unreasonable. This distinguished her from the Devil, who mercilessly judged everyone who strayed from the righteous path (Makhov, 2006: 83). Thus, the Virgin Mary played an important role in Christian theology, taking on the function of an “irrationally” merciful helper and protector. God was the Creator of the world and established divine justice, His was fearsome and awe-inspiring. Human beings needed a mediator between them and God, someone who could placate the wrath of God.

This characteristic of the Virgin Mary allowed theologians, for example, St. Bernard of Clairvaux, to maintain God’s status of the steward of divine justice, which was in many respects cruel and punishing, while the mother of Christ provided a promise of mercy (Taylor, 2005a). In *Processus Satanae*, the Virgin Mary loves humankind and treats believers as her children, she reacts emotionally to the Devil’s attacks on them. It is in connection with the Virgin Mary that we encounter the voice of humankind itself, which calls out to her in its prayers: “Mother of mercy, protect us, that is, the human race, from the evil enemy.”²³ It is also worth mentioning that in the course of the trial, Christ also shows mercy, postponing the day of trial to give humankind a chance to defend itself. He motivates this by stating that justice should be preferred to the severity of the law. But it is the Virgin Mary who becomes the main conduit of mercy.

The Virgin Mary’s tears may look ridiculous in the heavenly court, but they play an important role in the development of the trial. The Mother of God falls on her knees in front of her Son and bursts into tears in fear that humankind will fall into the hands of the Devil. Her tears touch the entire heavenly army, and they too begin to cry. In the Virgin Mary’s case, such emotional behavior is not a trick, but another way of intercession and showing her mercy and her never-ending concern for the fate of God’s creation. For medieval theologians, tears appearing in the eyes of saints in

²²For a solid introduction to the image of Mary as divine intercessor, see Spivey Ilington, 2001 and Pelikan, 1996.

²³Sassoferrato, 1495: 7: Mater misericordie nos que sumus humanum genus ab hoste maligno protegas.

an almost ecstatic state were an attribute of holiness (Shoemaker, 2012: 274). This episode is situated in the compositional center of the plot and plays an important role for its development: with her tears, the mother of God begins to convince the judge to be merciful. The demon cannot use this technique as, together with his master, he is an enemy of humankind and shares no connections with them or with the judge and thus cannot feel affection. Moreover, the demon condemns the judge for succumbing to the exhortations of “flesh and blood” and forgetting about lawfulness. An interesting paradox arises here: the Virgin Mary indeed appeals to the arguments of “the flesh,” reminding Christ that she is His mother who nurtured and protected Him in infancy, while the demon cannot influence the judge with the help of tears. The Virgin Mary’s tears are both purifying and humane, she cries as any mother would for her children. She is ready to take the most desperate action to protect humankind, demanding that her name be stricken from “the book of Heaven’s glory” if the Devil wins the case. The Virgin Mary’s merciful image is connected to her status as the divine mother. Her tears, her emotions, and her memories of the baby Jesus create an image of a kind intercessor which informs and augments her role as a lawyer.

The demon, on the contrary, appeals only to the judge’s sense of justice, referring to his official status and legal codes. He states that Christ can send him away without even listening but in this case the legal and divine competence of the judge would be undermined. The demon attempts to blackmail Christ by pointing out His flaws as a judge and familial sympathy for His mother’s woes. He consistently proves that the Virgin Mary cannot act as an advocate since she is a woman and the mother of the judge. The demon knows well that he can lose to the mother of God, who can easily persuade her son to take her side:

The demon responds: Holy Father, let neither flesh, nor blood, nor even the love of Your mother move You, as is argued in x.3.5.29, but do only justice, because You are justice, and also love, and rightfulness, and truth, as You say [that] You are life and the path of truth in every place, [and You say] “I am grace”.²⁴

²⁴Sassoferrato, 1495: 7: Respondet demon: Sancte pater non moveat vos caro et sanguis utrum nec etiam amor matris vestris arguit extra de praebendis.c.Grave ibi carnalitatibus sequentes affectum et cetera sed solam iustitiam fatiatis quia vos estis iustitia vos etiam estis caritas equitas et veritas ut per vos dicitis via veritatis et vita ubique locorum (est) ego sum gratia...

Thus, it becomes clear during the trial that the demon can only use legal arguments while the Virgin Mary can appeal to divine mercy and familial ties to Jesus Christ thus going against the standard course of the legal proceedings adopted on earth. She takes the case of humankind to a new, sacred level. The Virgin Mary violates many formalities earthly laws and yet wins in court.

RANSOM THEORY AND THE DEVIL'S ANCIENT RIGHT

The question of who has the right to own humankind is directly related to Christ's sacrifice to atone for the Original Sin committed by Adam and Eve and his descent into Hell to save the souls trapped there since the beginning of time. According to Pasciuta, the twelfth to thirteenth centuries saw legal terminology and interpretations enter theological writings (Pasciuta, 2015: 10). This tendency undoubtedly informed the framing of the plot of *Processus Satanae*. How should we regard humankind's disobedience to its Creator from legal and theological perspectives? Did Adam and Eve sin by their own free will or were they tempted and tricked by the Devil? And what is the Devil's role in this event: was he an invincible enemy of God, or could the fall into sin have occurred without his help? These questions occupied the minds of many medieval theologians, who can be divided into two groups according to their answers to these questions.

The first group, whose ideas were based on the theological thought of St. Augustine's, interpreted the events of the Fall and Christ's sacrifice on the cross through the lens of the so-called "ransom theory," or the paying of a debt (Almond, 2014: 29). According to this theory, the devil did have the right to possess humans, and Adam and Eve's debt to him could be paid off only by Christ's innocent death. The second group, on the contrary, did not believe that the Devil had any right to humankind, as he initially served as a warden of Hell. Since Adam and Eve had disobeyed the will of their Creator, they had to atone for their sin by "serving time" in Hell. However, in both these interpretations the events of the Fall and Redemption were described in legal terms, as theologians who pondered this topic often had both a theological and a legal education.

The most famous proponent of the first interpretation was St. Augustine. In his treatise *On the Trinity*, Augustine describes Christ's descent into Hell not simply as a merciful act, but as a legal act, because Christ justly saves humankind from the yoke of the Devil. Augustine argues that human beings initially belonged to the Devil, since they are burdened with mortal and hence imperfect and sinful bodies (Augustine, Haddan, 1887: XIII.12).

God Himself says “My spirit shall not always strive with man, for that he also is flesh” [Gen. 6:3]. Human mortality is the direct result of Adam and Eve’s transgression against the will of God. By committing the Original Sin, the first human beings signed a pact with the Devil, who now owned every person born into this world until they are baptized. The Devil by his evil nature is attracted to power (Augustine, Haddan, 1887: XIII.12) and hungers for it without any regard for righteousness or justice. This reading of the Devil’s nature distinguishes Augustine’s theory from that of his follower, Thomas Aquinas. The Devil’s evil deeds are known to God who keeps the evil enemy under control. It was Augustine who first separated the concepts of justice and power, which is a key point for the ransom theory.

God is the source of both righteousness and power, but righteousness and justice take precedence over power (ibid.: XIII.13). The Devil, attracted to power, received his right of ownership by force and not by justice, since he tempted and deceived the first progenitors. In Augustine’s theory, the Devil not only had the right to human beings as his debtors, but the right to keep them by force, especially believers who revered the innocently murdered Christ (Taylor, 2005a: 64; Augustine, Haddan, 1887: XIII.14–15). Thus, Christ could strip the devil of his ancient right to possess humankind only by restoring justice. Augustine states that Christ was completely innocent and not indebted to the Devil, since, although he belonged to humanity, he was born of a virgin and thus did not bear the burden of Original Sin. Consequently, he was not bound by debt to the Devil. With His sacrifice, Christ paid what He did not owe to the Devil, thus depriving the Devil of the right to possess humankind. Only Christ had sufficient power, status, and sense of justice to pay off humankind’s immense debt to the Devil, since He was equally God and human. If he had an exclusively divine nature, there would be no act of redemption, because God himself owes nothing to either humanity or the Devil. If Jesus were fully human, he would not have been able to bypass the burden of Original Sin. The Devil appropriates the sacrifice of Christ by *conductio indebiti*, a legal action by which the paying side can return what it paid by mistake.

Thus, for Augustine the act of redemption has legal connotations. Christ does not simply atone for the sins of humankind out of mercy, but fully repays the Devil what He Himself did not owe. Now the Devil becomes indebted to Christ by mistake and must grant freedom to humankind.

This theory informs the plot of *Processus Satanae*, since the Devil believes that he has a legal right, which he was unfairly deprived of. The very fact that the Devil files a lawsuit implies that he is sure that humankind belongs

to him by law. The demon-representative makes just arguments in favor of his master, while the Virgin Mary more often use the arguments of mercy and higher righteousness and, in the end, wins the case, despite the demon's appeals to earthly law.

The second point of view was expressed by St. Anselm of Canterbury who saw the Devil as a minor participant in the events of Sacred History and not as the great enemy of God or humankind. For Anselm, the concept of free will was of great importance. From his point of view, God was not responsible for the evil present in the world. The burden of free will fell on Adam and Eve who had exercised it and thus bore full responsibility in the face of their Creator. Thus, the Fall of humankind occurred without the Devil's instigation (Russell, 1988: 219). Adam and Eve broke their covenant with God, not with the Devil, who had no right to human beings. God had promised Adam and Eve eternal life in Paradise in exchange for their obedience. As punishment for their sin and breaking the agreement with God, Adam and Eve became indebted to their Creator and were expelled from Eden. Thus, humankind had to pay its debt to God, not to the Devil. According to Anselm, Christ paid for the sin of mankind directly to His Father (ibid.: 220). From Anselm's point of view, only Christ can atone for humankind: as a human he can understand the gravity of humankind's debt, and as God he can pay His Father what is due.

Anselm's theory is also reflected in the plot of *Processus Satanae*. The Virgin Mary and Christ remind the demon, that God is the Creator of humankind and, therefore, their rightful master. He alone has the right to possess human souls. He created human beings in his own image and likeness and planned their destiny, and thus cannot allow the Devil to meddle with His creation. While the demon's arguments refer to Augustine's theory, the Virgin Mary and Christ echo Anselm's theory, according to which human beings belongs to God and their sin is fully atoned for by the sacrifice of Christ.

AEQUITAS VERSUS JUSTITIA

The justice of the law and the justice of a higher, divine order often clash in theological works as many thinkers have tried to clearly divide these notions in order to understand where a fair trial ends and the violation of power begins. *Processus Satanae* provides a prime example of this controversy and shows the author's attempt to understand the true nature of mercy and justice. Even if the forces of good prevail here, the treatise shows that the road to true justice is tricky and arduous.

Here, I mention again the separation of the concepts of justice and power analyzed in detail by St. Augustine in *On the Trinity*. First, Augustine states that God the Father and God the Son love humankind. Without this love, the very act of redemption would not have happened since God does not owe anything to His creation. The death of Christ and his incarnation in a human body can only be explained by the infinite mercy of God and his love for human beings. The Devil received his right to possess humankind before the coming of Christ with God's permission (Augustine, Haddan, 1887: XIII.13). According to divine hierarchy, only God can give the Devil this right and consequently deprive him of it. The Devil is simply a conduit of God's will, and in a sense, an example of how one should and should not dispose of rights granted (Pasciuta, 2013: 50–51).

But since God is good and is the source of grace and justice, He must revoke the right to possess humankind from the Devil in accordance with divine justice and righteousness. In their struggle with the Devil, humankind should model their actions on God, who justly defeated His adversary. Righteousness, in Augustine's theory, is superior to power and force — it fills power with meaning. In mortal hands, power devoid of justice and righteousness becomes an instrument of oppression, and therefore mortals must adhere to justice. Only the saints can use power without abusing it (Augustine, Haddan, 1887: XIII.13). Similarly, only those who can intelligently combine power with righteousness can function as judges.

At the moment of redemption, these concepts perform various functions: Christ defeats the Devil with the help of justice and descends into Hell and saves the souls trapped there with the help of His unlimited power (Pasciuta, 2013: 425). Augustine states that God defeated the Devil first with righteousness and only then with His power (Augustine, Haddan, 1887: XIII.13).

The author of *Processus Satanae* goes further and separates not just the concepts of justice and power, but also two types of justice itself — *justitia* and *aequitas*, or *equitas*. Here *justitia* means simply the justice of the law established by man, while *aequitas* refers to moral justice or righteousness that comes directly from God. Christ is not only the source, but also the embodiment of *aequitas* and the measure which distinguishes the righteous from the unrighteous. This type of justice correlates with natural reason or *ratio naturalis* which is given to human beings by nature and is responsible for their sense of justice. One's actions must be consistent with natural reason and with the highest justice, which often goes in conjunction with

Christian mercy. *Justitia*, on the other hand, is a form for *aequitas* without which it comes down to empty laws lacking in meaning and force.

Christ the Judge establishes justice in court and oversees the consistent execution of laws. During the trial, Christ freely changes His mind which may seem paradoxical as indicated by the irritated demon. But Christ tells him that it is He who establishes the law and is not subject to its severity, thus asserting His status as the supreme ruler of Heaven.²⁵ An ideal judge, just like Christ, must combine fairness and justice without enforcing the law for the sake of following a rigid protocol:

<p>God, who knew about the hidden [things] of the heart, responds: You know that according to laws judges use true justice, and rigor, and righteousness. [...] Hence, we have righteousness in front of [our] eyes.</p>	<p>Respondet Dominus qui novit abfondita cordis: Tu scis quod iudices quinque secundum iura utuntur mera iustitia quinque rigore quinque equitate. [...] Unde cum equitatem ante oculos habemus.</p>
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This quote allows the reader to understand that ordinary justice is associated with severity, while the highest justice or righteousness is associated with mercy and equality. Christ postpones the hearing for a day in accordance with higher justice, since humanity is at a disadvantage to the Devil due to its imperfect state, large number, and mortal nature, although it is required by law to be present in court on time.

The Devil builds his argument on the concept of justice only:

<p>The Devil exclaimed loudly: Ha-ha, Lord, where is Your justice? I see that you have already strayed away in exercising justice in the same thing. The Lord said: Get out. Have We not told you that we want to observe righteousness?</p>	<p>Exclamavit voce magna demon: Haha, Domine, ubi est iustitia Vestra? Iam enim bis pro ea que video in exercenda iustitia defecistis. Dixit Dominus: Eitias eum foras. Nonne tibi diximus quod volumus equitatem servare.</p>
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Thus, *justitia* and *aequitas* are directly opposed to each other. While the demon insists on Christ fulfilling the duties of an impartial judge, the Lord himself adheres to the highest justice, without which earthly justice has no power. It is interesting that the demon-procurator tries to insist on an equal approach to both people and the Devil-plaintiff, because if he was convicted for his act, then the people themselves who fell into sin are

²⁵Sassoferrato, 1495: 3: Respondet Hiesus: Nos *iura* condimus et auctoritatem damus iuribus non *iura* nobis...

subject to punishment. Blind justice does not distinguish between guilty persons, the offense itself is important, but not the reasons that led to it, or who committed it.

Christ and the Virgin Mary use the power of justice only in a timely manner while the demon relies only on its force without even trying to appeal to righteousness.

The same statement can contain both types of justice, for example:

<p>We want to postpone today until tomorrow as righteousness itself advises; which We assign to you and humankind in order to lawfully appear in front of Us.</p>	<p>Volumus ipsa equitate suadente presentem diem in diem crastinam prorogare quam tibi et humano generi assignamus ad comparandum legitime coram nobis.</p>
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During one of the central moments of the trial, when the demon-representative demands that humankind must be punished for the transgression of Adam and Eve, Christ reminds him that human beings have already been condemned once and therefore:

<p>...it is not just that We should pronounce a sentence against the same sin once again, as D. 4. 9. 6 argues, where it is said that one must not complain about the same transgression of a man twice...</p>	<p>...non est iustum quod de eadem peccato bis contra genus humanum sententiam proferamus arguit Digestorum nautae caupones stebulari lex licet gratis para si in fine ubi dicitur quod non debet sepe de delicto eiusdem hominis queri...</p>
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The judge himself refers to a specific law from Justinian's Digest, intelligently combining justice and righteousness while finding a legitimate way to justify humankind's oppression by the Devil. In rare cases, demonic entities can refer to higher justice too, but only with certain reservations. When the demon returns to Hell for the first time after being forced to wait another day for the trial, his brethren tell him:

<p>To think in terms of righteousness, if Our Lord Jesus the judge had at least proceeded and fully listened to you, the representative of infernal malice, it would not have been unrighteous, as if one acts rightfully, he does not wrong anyone, as in D. 39. 3. 1.</p>	<p>Si equitate pensata Dominus Hiesus iudex noster processisset certe te procuratorem nequitie infernalis totaliter audivisset ex quo enim equo quis utitur nemini facit iniuriam ut Digestorum de aqua pluvia arcenda lex prima.</p>
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Here the demons think according to “righteousness” referring to the concept of *aequitas* that applies to all subjects of God. This example clearly shows the difference between *justitia* and *aequitas*, as the former is expressed only in consistent and strict observance of laws and prescriptions, while the latter relies on moral decisions which take the circumstances and context into account.

It is not Christ but the Virgin Mary who opposes the Devil and his minions as she is the mother of mercy. Although she uses earthly laws, quite often she relies on arguments of mercy and compassion when addressing her Son. The Virgin Mary’s affective strategy, and her tears and pleas, are associated with the popular image of the merciful defender of sinners (Makhov, 2006: 82). It is not surprising that the demon-representative actively tries to persuade Christ not to listen to arguments of flesh, blood, and love, as they bind Him to His mother and, consequently, to all humankind. Without compassion and empathy toward the fate of human beings there can be no mercy:

The demon responds: Holy Father, let neither flesh, nor blood, nor even the love of Your mother move You, as is argued in X. 3. 5. 29, but do only justice, because You are justice, and also love, and rightfulness, and truth, as You say [that] You are life and the path of truth in every place, [and You say] “I am grace”.

Respondet demon: Sancte pater non moveat vos caro et sanguis utrum nec etiam amor matris vestris arguit extra de praebendis.c.Grave ibi carnalitatis sequentes affectum et cetera sed solam iustitiam fatiatis quia vos estis iustitia vos etiam estis caritas equitas et veritas ut per vos dicitis via veritatis et vita ubique locorum (est) ego sum gratia...

The demon uses false logic and states that the power of divine justice is based on laws, and not vice versa. He loosely quotes a line from the Gospel of John: “Jesus said to him: I am the way and the truth and the life; no one comes to the Father except through Me” [John 14:6]. The Devil knows very well that the final and only decision at this trial belongs to Christ the judge. The Devil cunningly tries to make Christ play his game, constantly reminding Him of His high status as a judge and of his obligations before the law.

The Virgin Mary, on the contrary, constantly highlights the weakness and suffering of humankind, putting its interests first:

Hearing that, the advocatess responds: Listen, my Blessed Son, You are the rigor of justice but also the highest degree of righteousness and You are full of sweetness and mercy. And [the demon] is asking to first proceed by the rigor of law.

Quod audiens advocata respondet: Audite fili mi benedite vos estis rigor iustitie necnon summa equitas et plenus dulcedine et misericordie. Et primo de rigore iuris petivit procedi.

In this quote, the Virgin Mary shows that while the demon insists that only the rigor of the law should be fulfilled, God is the source of both righteousness and justice, and therefore it is in His power to show mercy in judgement. Thus, a fair and merciful judge should base their decision on an honest account of the events and their context. True justice implies understanding and compassion, a fair judge sees the whole picture and cannot be limited only by the letter of law (Taylor, 2005b: 77).

Christ's final decision completely frees the human race from the oppression of the Devil:

With this final decision, We free humankind and, of course, completely absolve [it] from the assault of the representative of infernal malice. Indeed, it follows according to the most sacred legal writings of truth, which we want to follow in this.²⁶

Here “the sacred legal writings of truth” refer to the sum of fairness and justice reflected in laws of divine Truth. Christ the judge makes his moral and legal decision after listening to all the arguments of the parties and fully considering their implications. As Taylor writes, the truth does not consist of mere dry facts, but must go hand in hand with sincerity and compassion (ibid.). Thus, the judge's correct decision is holistic and takes human sin and suffering into account. Taylor believes that here Christ combines justice and mercy in an act of sacrament, or *mysterium*, which exceeds any rational idea. Here we move into the realm of the supersensible and should simply believe in God's grace (Taylor, 2005a: 18).

According to Pasciuta, the heavenly trial described in the treatise can be interpreted as a kind of mental exercise or experiment, a “mock trial” (Pasciuta, 2013: 83). Here, absolute good meets with absolute evil to judge humankind. The situation driving the plot is quite paradoxical — the Devil, in the guise of his representative, appears in Paradise, and if he wins the

²⁶Sassoferrato, 1495: 22: Humanum generis hac sententia diffinitiva absolvimus et ab impetio ne procuratoris nequitie infernalis reddimus absolutum. Cum hic consonet sanctissimis scripturis iurisce veritatis quam in hoc sequi volumus.

case, then the consequences for humankind and the whole world will be terrifying: all souls will fall into his possession. This frightening image lies at the heart of the experimental religious theatrical performance that is *Processus Satanae*; it is a powerful metaphor designed to impress the reader (Pasciuta, 2013: 433; Pasciuta, 2015: 11).

The process presented in the treatise is a collective image of all earthly lawsuits, as well as an ideal of how a trial should be conducted. If one looks beyond the grotesque elements that occur throughout the story, parts of a real trial are discernible: the gradual and ritualized development, clearly defined stages of a formulaic process, and references to various codes of laws. Taylor notes that the images of the Virgin Mary, Christ, and the Devil in this text cease to be allegorical and become more “down-to-earth.” The author of *Processus Satanae* does not imply that real lawyers, judges, and plaintiffs should act like the participants of the heavenly court, but rather uses these characters as examples of how to conduct a case (Taylor, 2005a: 138). Thus, the plot combines secular legal themes with theological ideas and literary motifs. The image of the heavenly court reflects the general attitude towards judicial processes in the Middle Ages: trials were not intended to search for abstract truth but gave the Lord an opportunity to definitively establish justice (ibid.: 184).

CONCLUSION

The tradition of *Processus Satanae* has undergone many changes throughout its history. Starting as a short story about a confrontation between Christ and the Devil, the text had turned into a detailed treatise with legal elements by the thirteenth century. It narrated a story about the heavenly court where the Devil appeared as the plaintiff, Christ as the judge, and the Virgin Mary as the lawyer of humankind. This treatise contained a mix of cultural, theological, and legal ideas important for the Middle Ages—here the readers could find sophisticated theological points, references to popular culture, literature, and jurisprudence. Thus, the tradition of the *Processus Satanae* was in many ways an indicative phenomenon of the European culture of the Late Middle Ages.

The roles played by the Devil and Christ at the heavenly court appear as a logical continuation of the functions attributed to these figures in Christianity. The name “Satan” is translated from Greek as “accuser,” “slanderer,” and he becomes the main antagonist of the process, the Virgin Mary becomes the lawyer of humankind, and Jesus Christ assumes the role of the stern but

merciful supreme judge. The author opens his treatise with these words:

And this process has in itself famous and widespread authorities of law, which should be elegantly applied to persons debating in court as much as to the judge.²⁷

This quote neatly describes the function of the treatise intended by the author: it is an example of how to act in court.

As a character in the treatise, the Devil, like the Virgin Mary and Christ, served as a formal example for students of law who wanted to quickly learn how to properly conduct a lawsuit. This image also served as a negative example in terms of morality, since his arguments were not guided by justice and mercy but only followed the law harshly and dryly. The question of the correlation of justice (*justitia*) and righteousness (*aequitas*) especially in connection to redemption was important for theologians, who interpreted it differently. While some advocated the so-called “satisfaction theory”, according to which human beings became indebted directly to God after disobeying Him and had to atone to Him, and not to the Devil. Others advocated the “ransom theory,” according to which the Devil struck a bargain with humankind during the fall and became the owner of human souls. He lost this right only after the Harrowing of Hell and the sacrifice of Christ. It is the latter theory which forms the basis of *Processus Satanae*’s plot, and the Devil files a lawsuit in order to regain his lost right. The plot of the heavenly judgment, therefore, is a direct continuation of previous philosophical research on the nature of human sin and the meaning of redemption which began in the time of Augustine.

There is a complex image of the Devil and the demon built in the treatise. In previous treatises of this tradition the Devil himself or a recognizable demon (Ascaron, Mascaron, Belial) appeared in court, but the demon of *Processus Satanae* has no name or rank; he is the representative of his master only by the decision of the council of infernal malice. The Devil himself, although he should not appear in the courtroom, sometimes peeps through his assistant, as if through a mask, and all those present in the courtroom well understand this and quickly reveal his deceit. This shows another theological motif associated with a dispute about the nature of demons and their lord. The Devil and the demon merge into one whole,

²⁷Sassoferrato, 1495: 1: Et hic processus in se quotidianas et vulgares iurium habet autoritates ad personas in iudicio contententes partier et iudicem dietim pulcre applicandas.

become part of the common infernal malice (*nequitie infernalis*), although they can also exist as separate actors, thereby perversely parodying the image of the Holy Trinity.

REFERENCES

- Almond, Ph. 2014. *The Devil: A New Biography*. London: I. B. Tauris.
- Augustine [Augustinus]. 1887. "On the Trinity [De Trinitate]." In vol. 3 of *Nicene and Post-Nicene Fathers*, ed. by Ph. Schaff, trans. from the Latin and from the Ancient Greek by A. W. Haddan. 14 vols. Buffalo: Christian Literature Publishing Co.
- Clark, S. 1997. *Thinking with the Demons: The Idea of Witchcraft in Early Modern Europe*. Oxford: Oxford University Press.
- Cox, J. D. 2004. *The Devil and the Sacred in English Drama, 1350–1642*. Cambridge: Cambridge University Press.
- Gurevich, A. 1981. *Problemy srednekovoy narodnoy kul'tury [Medieval Popular Culture]* [in Russian]. Moskva [Moscow]: Iskusstvo.
- Hartmann, C. C. de. 2007. *Lateinische Dialoge 1200–1400. Literaturhistorische Studie und Repertorium* [in German]. Leiden, Boston: Brill.
- Kaup, M. 2021. "The Infernal Trinity as Passivized Pacemaker of Salvation History: Satan's Particular Eschatological Activity in Anonymous Bambergensis' Tracts De semine scripturarum and De principe mundi." In *The End(s) of Time(s) : Apocalypticism, Messianism, and Utopianism through Ages*, ed. by H.-C. Lehner, 221–266. Leiden, Boston: Brill.
- Makhov, A. Ye. 2006. *Hortus daemonum [Hortus daemonum]: Slovar' infernal'noy mifologii Srednekov'ya i Vozrozhdeniya [Categories and Images of Medieval Christian Demonology]* [in Russian]. Moskva [Moscow]: Intrada.
- Mommsen, T., P. Krueger, and A. Watson, eds. 1985. *The Digest of Justinian*. Vol. 1. Philadelphia: University of Pennsylvania Press.
- Pasciuta, B. 2015. *Il Diavolo in Paradiso: Diritto, teologia e letteratura nel Processus satanae (sec. XIV)* [in Italian]. Rome: Viella.
- . 2013. "Il diavolo e il diritto: il Processus Satanae (XIV sec.)" [in Italian]. In *Il diavolo nel medioevo. Atti del 49° Convegno storico internazionale*. Spoleto: Fondazione CISAM.
- Pelikan, Ja. 1996. *Mary Through the Centuries: Her Place in the History of Culture*. New Haven: Yale University Press.
- Quagliioni, D. 2004. "La Vergine e il diavolo. Letteratura e diritto, letteratura come diritto" [in Italian]. *Laboratoire italien: politique et société*, no. 5, 39–55.
- Russell, J. B. 1988. *The Prince of Darkness: Radical Evil and the Power of Good in History*. Ithaca, New York: Cornell University Press.
- Sassoferrato, B. da. 1495. *Processus satanae contra genus humanum* [in Latin]. Leipzig: Gregor Boetigger.

- Shoemaker, K. 2012. "When the Devil Went to Law School: Canon Law and Theology in the Fourteenth Century." In *Crossing Boundaries at Medieval Universities. Education and Society in the Middle Ages and Renaissance*, ed. by S. Young. Leiden: Brill.
- Spivey Ilington, D. 2001. *From Sacred Body to Angelic Soul: Understanding Mary in Late Medieval and Early Modern Europe*. Washington, D. C.: The Catholic University of America Press.
- Taylor, S. L. 2005a. "Mary Between God and the Devil: Jurisprudence, Theology and Satire in Bartolo of Sassoferrato's *Processus sathanae*." PhD diss., University of Arizona.
- . 2005b. "Reason, Rhetoric, and Redemption: The Teaching of Law and the *Planctus Mariae* in the Late Middle Ages." In *Medieval Education*, ed. by R. B. Begley and J. W. Koterski. New York: Fordham University Press.
- Urs, L., and S. Weidmann. 2019. *Huldrych Zwingli's Private Library*. Leiden: Brill.

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ПЛОТЬ И КРОВЬ ПРОТИВ СТРОГОСТИ ЗАКОНА

ПОНЯТИЯ JUSTITIA И AEQUITAS В ТРАКТАТЕ «PROCESSUS SATANAE CONTRA GENUS HUMANUM»

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Аннотация: Трактат XV века «*Processus Satanae Contra Genus Humanum*» — замечательный артефакт позднесредневековой культуры, в котором сочетаются значимые для того периода элементы богословия, юриспруденции и народного искусства. Он был задуман как пособие для студентов-юристов и представляет собой идеализированный пример судебного заседания: по сюжету дьявол подает в суд на человечество и требует, чтобы оно вернулось в его обладание. Дьявол посылает демона-представителя в небесный суд для защиты своих интересов, в то время как Дева Мария берет на себя роль адвоката человечества. Судебное разбирательство проходит перед лицом судьи — Иисуса Христа. После долгих прений силы добра выигрывают дело. За этим гротескным сюжетом скрываются серьезные рассуждения о различных видах правосудия и их значимости для реальных судей, адвокатов и истцов. Автор трактата различает два вида правосудия: *justitia* и *aequitas*. *Justitia* отсылает к строгости сводов прав, а *aequitas* — к праведности и милосердию. Именно *aequitas* исходит непосредственно от Бога; без ее добродетели *justitia*

превращается в жесткий закон, не имеющий действительной силы в христианском понимании. Дьявол и его слуга проигрывают дело, так как они полагаются на доводы, отсылающие исключительно к *justitia* ведь им неведомы сострадание и сопереживание. Таким образом, трактат предостерегает студентов-юристов от слепого следования букве закона без проявления милосердия и без учета индивидуальных обстоятельств сторон.

Ключевые слова: Образ Сатаны, каноническое право, римское право, определение понятия справедливости, *aequitas*, *justitia*.

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