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THE ECCLESIASTICAL JUSTICE SYSTEM IN THE KINGDOM OF BOHEMIA IN THE MIDDLE AGES / Pavel Krafl

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Abstract: *The study concentrates on the ecclesiastical courts that operated within the Prague ecclesiastical province. The episcopal judiciary in the Czech lands comprised the officialis, the vicar general, the corrector cleri, and the bishop's inquisitor. The officialis appears for the first time in the Diocese of Olomouc under Bishop Bruno of Schaumburg (1245–1281). The judicial office of the corrector cleri was a unique office that emerged only in Prague. The papal courts in the territory of the ecclesiastical province comprised the papal inquisitors and the conservators of rights. During the Hussite and post-Hussite era, the archbishopric of Prague was left unoccupied, and the judicial agenda was conducted to a limited extent by the administrators of the archbishopric. One of the criticisms made by pre-Hussite reform theorists was levelled at the negative features of the judiciary, particularly the corruption of judges and the absence of impartiality.*

Key words: *Ecclesiastical Justice; Episcopal Judiciary; Papal Judiciary; Kingdom of Bohemia; Middle Ages*

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1. INTRODUCTION

The 13th century and the first half of the 14th century were marked in the life of the church in the Kingdom of Bohemia by the enforcement of canon law (Krafl, 2023a, 66–69; 2021, 35–38; 2023b, 7–9; 2023c, 34–35; 2023d, 450–451; 2023e, 69, 71; 2023f). The aim of the study is to present the development of the ecclesiastical justice system in the Kingdom of Bohemia. The Diocese of Prague and the Diocese of Olomouc were both situated within its territory. The Prague ecclesiastical province was founded in 1344 and consisted of the Archdiocese of Prague, the Diocese of Litomyšl, and the Diocese of Olomouc. We focus our attention on the archdeacon, the officialis, the vicar general, the corrector cleri, the inquisitor, and the conservator of rights, and their activities in the above-mentioned Czech dioceses.

Most sources on the history of the ecclesiastical justice system have been published. Ferdinand Tadra edited the judicial documents of the Prague vicars general (Tadra, 1893–1901). The same editor issued excerpts from the protocol records of the papal court deposited in the library of the Prague Metropolitan Chapter (concerning eight cases) (Tadra, 1893). The record books of the corrector cleri of the Prague archdiocese from the years 1407–1410 were edited by Jan Adámek (Adámek, 2018). Alexander Patschovsky published the text of the Bohemian inquisition manual (Patschovsky, 1975),

as well as fragments from the Inquisition Protocols of Havel of Kosořice, sources on the trial of Brno goldsmith Hejnuš Lugner, and other sources on the history of the Inquisition in Bohemia in the 14th century (Patschovsky, 1979). Dominik Budský submitted a critical edition of the procedural handbook of the Prague officialis and vicar general Mikuláš Puchník (Budský, 2016, pp. 114–201).

2. ARCHDEACON

According to canon law, the archdeacon (*archidiaconus*) had jurisdiction in defined areas, these relating to his powers of visitation (X 1.23; Friedberg, 1959, col. 149–163). The Bishop of Olomouc Jindřich Zdík (1126–1150) introduced archdeacons in the Diocese of Olomouc. This happened after the seat of the bishopric was moved from the original Cathedral of St. Peter to the newly built Cathedral of St. Wenceslas (1141). Archbishop Jindřich Zdík made the archbishops canons of the cathedral chapter. The nominal seats of the archdeaconries, and thus the centres of the archdeaconry district, were in Přerov, Olomouc, Spytihněv, Břeclav, Brno, and Znojmo. Bishop Jindřich Zdík received castle churches from the Bohemian duke Soběslav I, these becoming the assets of the new archdeaconries. In this way, the archdeaconries follow on from the seats of the former archpriesthoods from the period when the castle system of administration operated in the Duchy of Bohemia. Archdeaconries were established in the Diocese of Prague in the 1160s under Bishop Daniel I. (1148–1167). A total of ten archdeaconries were created there, these seated in Prague, Bechyně, Hradec Králové, Žatec, Kouřim, Stará Boleslav (Žeržice), Litoměřice (Roudnice), and Plzeň. An archdeaconry in Horšovský Týn is documented in the years 1184–1192, an archdeaconry in Bílina in 1216. The archdeaconries in Bohemia evidently evolved outside the archpriesthood system and in connection with the episcopal estates, whose assets the archdeacons secured (Polc, 1999, pp. 48–51; Kadlec, 1991, pp. 118–119; Hledíková, Janák and Dobeš, 2005, pp. 174–175).

In Bohemia and Moravia, there was no independent institutionalised court of the archdeacon, the send (the synodal court).[1] The archdeacon alone exercised his authority. The Moravian synodal statutes of 1318 mention authority in matrimonial matters in connection with the archdeacons (Krafl, 2014a, p. 269, No. A.III/13). The provincial statutes of the Prague archbishop Arnošt of Pardubice from 1349 attribute jurisdiction to the archdeacons in matrimonial and usurious matters (Polc and Hledíková, 2002, p. 123, No. 10; cf. Kubíčková, 1932, p. 416). Later, in the synodal statutes of the Olomouc diocese from 1413, matrimonalia are, as can be expected, reserved for the officialis alone (Krafl, 2014a, pp. 347–348, No. A.VI/35).[2]

According to the Prague synodal protocol of 1366, parish priests were to hand over to the archdeacon (and officialis) for canonical punishment "hereticos aut suspectos in fide, usurarios, divinatores, carminatores, fictores, adulteros, concubinarios manifestos, contemptores sententiarum et blasphemos ceterosque publice criminosos". A text of almost identical wording is thereafter found in the Prague synodal protocol from 1374–1378, which additionally mentions falsarios and criminatores (Polc and Hledíková, 2002, p. 193, No. 2; p. 207, No. 9).

[1] Evidence of synodal courts under Bishop Jindřich Zdík was found in manuscript CO 202 of the Olomouc Chapter Library, this containing a compilation of the collections of Burchard of Worms (with a provision on sends, synodal courts). The manuscript cannot serve as a proof of the application of the legal institute, see Krafl (1996, pp. 740–741, footnote 13).

[2] For archdeacons in Olomouc diocese statutes from 1461 see Krafl (2016, pp. 95–96).

The filling of archdeaconries by means of reservations by the Holy See during the 14th century resulted in persons entering this office who were not connected to the bishop and often had no interest in official activities relating to the prebend. Eight of the nine archdeaconries of the Prague archdiocese whose appointments were in the hands of the archbishop were newly occupied on the basis of papal intervention. Around the middle of the 14th century, the relationship between the bishop and the archdeacon was loosened and important archdeaconries escaped the bishop's influence. This resulted in the decline of the importance of the office of archdeacon in the administration of the diocese (Eršil, 1959, pp. 66–71; Hledíková, 1990, pp. 22–24; 1976, pp. 257–258; 2010, pp. 27, 416–419).

3. EPISCOPAL JUDICIARY

The importance of the diocese's previously established central courts grew parallel to the decline of the role of archdeacon. The bishop of the diocese was the sole holder of jurisdiction over the clergy of the diocese. This was regulated in *De officio ordinarii* of the first book of Liber extra (X 1.31). Exceptions in the main were monastic orders, which had their own organisation, were exempt, and were accountable directly to the Pope. The Benedictines and the Canons Regular of St. Augustine were mainly subject to the jurisdiction of the bishop. The episcopal judiciary in the Czech lands was represented by the officialis, the vicar general, the corrector cleri, and the episcopal inquisitor.[3]

The offices of officialis and vicar general were mandatory under canon law, and the bishop determined their juridical powers. Of the two, only the office of officialis was of a purely judicial nature; the vicar general was a typically administrative authority, unless the bishop decided otherwise, as was the case, for example, in the Prague archbishopric, where he also received a judicial remit. The corrector cleri was found only in Prague. The form of the judiciary and the powers of the individual courts might therefore have differed from one diocese to another, and within the dioceses of one ecclesiastical province; this was part of the tradition of a particular bishopric. The bishop appointed and dismissed the judge and the ordinary power of a particular judge ended with the discontinuance or termination of the juridical powers of a particular bishop (resignation from office, death, excommunication, suspension). The phraseology used in the episcopal charter of the 13th century with judicial content illustrates the penetration of Roman law (Boháček, 1967, pp. 273–304).

An appeal from the episcopal court (namely from the court of the officialis) was referred to the court of the metropolitan. An appeal from the Prague officialis passed to the metropolitan of Mainz until 1341, and, from 1341 to 1344, to the papal court of Roman Rota, because in that time the Prague diocese was exempt. An appeal from the court of the Olomouc officialis was referred to the court of the metropolitan of Mainz until 1344, and from 1344, to the competent court of the metropolitan of Prague. Similarly, after the establishment of the bishopric in Litomyšl, an appeal from the local episcopal court was referred to the competent court of the Prague metropolitan. Appeals from the archbishop's courts were referred to the papal court of *Audientia Sacri Palatii causarum*, otherwise known as *Rota Romana,* which progressively came into being in the second half of the 13th century (Hartmann and Pennington, 2016, pp. 217–218; Brundage, 1995, pp. 125–126; Flaiani, 2013, pp. 379–381, 388–390).

[3] On the Episcopal Inquisition briefly within the context of an interpretation of the Papal Inquisition; see below.

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3.1 Officialis

The origins of the officialis are found in the delegation of powers by the ordinary to deal with specific cases or for a certain period of time; only later was a permanent office established. An officialis appears for the first time in the Diocese of Olomouc under Bishop Bruno of Schaumburg (1245–1281). The first proven officialis is the German knight Gottfried, documented in the year 1258. Further evidence comes from the years 1267–1269, when German knight and doctor of decrees Heidenreich acted as officialis (Kouřil, 1967, pp. 146–147). Synodal statutes from 1282 mention an ordinary or delegated judge, but the term officialis is not used. The Kroměříž synodal statutes of Bishop Konrad I (1316–1326) of 1318 delegates matrimonial matters exclusively to the officialis and to the archdeacon already mentioned (Krafl, 2014a, p. 253, No. A.II/15; p. 269, No. A.III/13; 2003, p. 103).

Bartholomew, officialis of the Bishop of Olomouc Hynek Žák of Dubá (1326–1333), is proven to have been active in the period prior to July 1330 and in July 1330. Another officialis of the same bishop, doctor Jan Paduánský, is mentioned in 1332, remaining in office until 1333, when Bishop Hynek died. Jan Paduánský was simultaneously the Vicar General. Other documents about the activities of the officialis come from the years 1335, 1340, 1357, 1363, 1366-1368, 1373, and 1375, then regularly from the 1380s. Under Bishop Jan Volek (1334–1351), the office of the officialis was separated from the vicarage general in terms of personnel, but from 1387 until the early modern age, the two offices were connected by personnel, with a few exceptions (Kubíčková, 1932, pp. 396–398; Krafl, 2023a, p. 112).

The Olomouc officiales had broad, almost exclusive powers. The Olomouc consistory met in various locations, moving according to wherever the main residence of the Olomouc officialis might have been. The officialis and the consistory therefore travelled around the bishops' castles of Mírov, Modřice, Kroměříž, and Vyškov; they also judged in other localities. If they were working in Olomouc, the consistory moved around the houses of the individual cathedral canons in office at that time. The consistory in Olomouc therefore did not have its own building, as was the case in Prague (Krafl, 2023a, p. 112–113).

We are informed, from a questionable document, of a Prague officialis in the year 1266. A fragment of a formulary from the unpreserved manuscript MS 14 of the Plock Cathedral Chapter provides the name "Magister A., canonicus et officialis Pragensis", with the given date. The manuscript was destroyed during World War II (Vetulani, 1963, pp. 387–388; Boháček, 1967, pp. 288). We subsequently come across the officialis in the Prague diocese under Bishop Řehoř of Valdek (1296–1301). The oldest undisputed evidence comes from the years 1298–1299, when Master Hostislav figures as the officialis of the Prague bishop. He, at the bishop's order, negotiated a dispute between the Knights of the Cross with the Red Star in Prague and the Waldsassen monastery about the occupancy of the parish in Kynšperk. In 1299, Hostislav used his personal seal, bearing the title of officialis; the seal of the officialis as an office was still not used, as it was when a permanent office was in effect. The officialis operated as a permanent office in Prague from at least the time of the officialis Nicolaus (1319–1326). Instructions regarding the composition and activity of the court of the officialis, as well as the course of action before the court, were issued by Arnošt of Pardubice in 1356, these defining both the tradition and practice up to that time. The activities of the Prague officialis lay in questioning and settling disputes, conducting court proceedings, appointing representatives of the parties, and dealing with other matters relating to judicial proceedings. Matrimonalia fell within his exclusive scope, and, until 1379, disputes over the parish benefice (Kubíčková, 1932, pp. 398–403, 411, 414–415; Hledíková, 1971a, pp.

54–55, 65; Vyskočil, 1947, pp. 327–330; Hledíková, 2008a, pp. 132–134; edition of the instruction from 1356, see Menčík, 1882, pp. 6–11, No. 2). The office of officialis was in place in the Diocese of Litomyšl from 1354, if not earlier. The consistory in Litomyšl ended with the demise of the Litomyšl bishopric in 1421 (Hledíková, 1994, pp. 40–41, 47; Hledíková, 1971a, p. 13).[4]

The instructions of the Prague archbishop from 1356 stipulate that notaries would record all dealings in *manuals* and subsequently in a register. *Manuals* had the character of an official book for internal use, and did not have public validity. They were auxiliary books, protocols. Entries did not concentrate on one dispute, but continuously recorded judicial proceedings. As a whole, these books have disappeared, but a number of fragments have been preserved. They were kept on paper. They do not contain copies of documents relevant to the dispute, but instead record the procedural stages of all individual disputes and the actions of persons who appeared before the court on a particular day. The dates of individual proceedings were written above the entries, together with the name of the person who was presiding over the court, often in minuscule or other prominent script. Records are concise notes of judicial hearings held in the past or planned thereafter. Matrimonialia are not found in manuals, because a summary trial was used for them (Hledíková, 2003–2004, pp. 26–27; 1961, p. 50; 2004, p. 506; Kubíčková, 1932, pp. 443–444).

Registers had the character of a book of files (of the same nature). They were kept in parallel by two sworn notaries on four-leaf-folded pieces of parchment known as "kvatern". All documents submitted in relation to the dispute were copied there. Assistant scribes could be employed when copying. At the end of the dispute, the register was handed over to the officialis. The registers were permanently valid and were to have been kept in a separate cabinet *(scrinium seu conservatorium actorum*). They were kept on parchment and for this reason a number of fragments have been preserved, scattered throughout various archives and libraries.[5]

Unquestionable matters discussed before the officialis were entered separately in the volumes referred to as *acta obligatoria*. The book of unquestionable matters considered by the Prague officialis from 1393–1400 has been preserved to this day. In addition, it contains a partial copy of the previous book from the years 1387–1393. Entries represent the current records of proceedings; sometimes a copy of a document appears. The date of the hearing is not written at the top, as is the case in judicial acts of the questionable agenda. Most frequent are entries on the admission of debts. In the case of payment, the entry is crossed out or the word "solvit" ascribed to it; in exceptional cases a separate letter of acquittance appears. The second group of entries comprises records regarding the appointment of arbitrators, records of their awards, and entries regarding the submission of litigants to the arbitrator. In addition, there are records regarding the purchase of a prebend´s annual revenue. Occasionally, there is a contract of lease, a promise to keep the Peace of the Lord, and a pledge to pay an heir´s share. The book has a carefully elaborated period register, which was evidently created over time. Moreover, a paper fragment from 1384 containing six records still remains. The scribe of that fragment was identified as one of the writers of the abovementioned book of unquestionable agenda (Hledíková, 1961, pp. 50–59; Hledíková, 2004, pp. 506–507).

[4] As far as official books are concerned, none on the activities of the Litomyšl consistory remain.
[5] Several fragments were described by Hledíková (2003–2004, pp. 27–43, on pp. 44–52), she submits a series of three fragments from the Moravian Library in Brno and from the Archives of the National Museum in Prague; cf. Hledíková (2004, pp. 504–505); Kubíčková (1932, pp. 444–446).

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In the case of matrimonialia, the investigation was carried out by parish priests from the locality from where the parties to the dispute originated, or from the neighbourhood. The mandates ordering an investigation were delivered to the parish priest by a court messenger. The parish priests investigated the circumstances and, if necessary, interviewed witnesses. They forwarded the results of their inquiry, in writing, to administrators, who, on the basis of the findings, made an entry in the dispute files in the required form. Such written records made by the parish priests sporadically remain to this day (Hledíková, 2003, pp. 34–35).

Formularies were created for the needs of the office of officialis. A formulary was evidently created in Prague in 1266, although this has not been preserved. A fragment of the form from the mid-13th century was preserved until the middle of the 20th century in manuscript MS 14 of the Płock Cathedral Chapter, where it was discovered by Polish legal historian Adam Vetulani (Vetulani, 1963, pp. 387–388; Boháček, 1967, p. 288). The formulary of Prague officialis Bohuta of Kladno has been preserved in a manuscript from the Austrian monastery in Wilhering. It contains fourteen documents relating to the proceedings which occurred during his term of office, i.e. in the years 1329–1335 (Kubíčková, 1932, pp. 460–463). The needs of the developed office were served by the formulary created under Prague officialis Jenec Závišův of Újezd (1363–1380) in his office. It is found in two manuscripts of the archives of the Prague Metropolitan Chapter and in a manuscript of the Prague Chapter Library (the so-called Přimda´s formulary), all from the 14th and 15th centuries. The formulary contains simple specimens of the most common types of documents (citations) and copies of actual documents in slightly abbreviated form. The documents which are dated or dateable come from the years 1362–1380, with those from the 1360s predominating. The creation of the set is dateable to the years 1377–1379, when the most-recent texts were created, which we can date. None of the manuscripts represent the original writing of the formulary: they are copies. The person who compiled the set is unknown. It is, however, possible to identify the considered arrangement of individual specimen texts, which follow a procedural course of action. Particular account is taken of documents issued by a judge and of other specific documents and unquestionable matters (Hledíková, 1972, pp. 136, 138, 142, 143, 150; cf. Kubíčková, 1932, pp. 463–470).

3.2 The Vicar General

The office of vicar general (*vicarius in spiritualibus)* appears for the first time in the Diocese of Olomouc, specifically in the years 1258–1269, and again in 1332, but the judiciary of the vicars general did not evolve in Moravia (Kouřil, 1967, p. 147; Bistřický, 1971, p. 41). In Prague, the vicar general is documented for the first time in 1311 (Hledíková, 1971a, pp. 10, 12–13). The vicarage general was constituted as a permanent office in Prague under Arnošt of Pardubice (1343–1364). Until 1358 it was proxy in character, from the years 1344 to 1358 its vicars general having their powers defined on a case-by-case basis and for a limited time. From 1358, the appointed vicars general sat in permanent office and were given a wide range of authority. Arnošt decided that the vicars general, in the absence of the archbishop, would be entrusted, inter alia, with the power to cite, suspend all clergy and laymen of the church province subject to the authority of the archbishop, pronounce an interdict on the territory of the church province, and arrest and lock up clergy in jail. The authority to change the person of the officialis was subsequently removed from the remit of the vicar general (Hledíková, 1971a, pp. 27–28; 2008b, p. 522; Kubíčková, 1932, pp. 414–415).

However, not a single court decision of the vicars general is documented until the episcopate of Prague Archbishop Jan Očko of Vlašim (1364–1378). The situation changed in 1373, when the vicars general began to keep court records and began to take decisions "in more minor, shorter, and simpler" disputes. Court records document the solutions of questionable matters, a small number of matrimonial matters (which ceased to be decided before the vicars general under Jan Očko), and the resolutions of unquestionable matters (debt records, quittance records, records of donations, sales, and contracts), as well as supervision of the observance of canonical regulations. After 1379, they took on from the officiales disputes regarding the benefice and law of patronage, which became the most common subject of their questionable agenda. From the 1390s, we encounter matters of faith in court records. When the vicar general was appointed in 1395, he was given additional powers when compared to those specified in the stylistically similar document of Arnošt of Pardubice: the right to grant dispensation in cases reserved for the bishop, the right to mitigate or cancel the punishments laid down by provincial or synodal statutes, the right to hear and adjudicate all disputes directly before the archbishop's court, and the right to hear appeals too, including disputes about the benefices (Hledíková, 1971a, pp. 52, 54, 68, 70, 73–74, 81). The court of the vicar general sat on all days of the week, i.e. from Monday to Saturday, in the years 1373–1383, while for the years 1384–1398 it is documented that it mostly acted on Monday, Wednesday, and Friday (Hledíková, 1966, pp. 161–162).[6]

The court records of the vicars general have been preserved for the years 1373–1387, 1392–1393, 1394, 1396–1398, 1401–1404, 1406–1408, and 1420–1424 (Tadra, 1893–1901; Hledíková, 2004, pp. 509–513). The court records of the vicars general have the character of *manuals* (1373–1408). Exceptions here are the fragments edited by Ferdinand Tadra in volume VII of his edition of court records, and which come from the registers (1420–1424) (Tadra, 1893–1901, vol. VII, pp. 217–246; cf. Hledíková, 2003–2004, p. 26, footnote 7). The manner in which the manuals were kept, and in turn their functions, changed significantly between 1373 and 1408. Three successive time periods can be traced. The first runs from 1373 to 1383. Manuals from this period (two books) were written and kept by one writer, namely the notary public Jan of Pomuk. He alone maintained the court books of the vicar general and his books take the typical form of a manual. Entries were made on all days of the week. The second stage is the period from 1384 to 1398, when two more books were created. There were multiple scribes during this period, in charge of entries in judicial documents and in Libri erectionum and Libri confirmationum. The agenda was not divided between them. Entries in the vicar general's court books were made on Mondays, Wednesdays, and Fridays. The third stage covers the period from 1401 to 1408. Two official books were again created. Here, there was the separation of questionable and unquestionable agendas. The questionable agenda was always entered by one designated scribe, who devoted himself exclusively to this. The unquestionable agenda was still kept by scribes who were also in charge of entries in Libri erectionum (Hledíková, 1966, pp. 161–162). From the organisational perspective, the manuals from the first period also contain records of the appointment of a deputy vicar general for a particular matter, or random records of the beginning of the term of office of a new vicar general. Such records subsequently became rare and completely disappeared during the third period (Hledíková, 1966, pp. 161, 163).

The main content of the manuals comprises records of legal acts that occurred in the course of proceedings before the court of the vicar general (questionable

[6] For the years 1407 and 1408, Jan Adámek summarised paperwork on individual days in a table based on judicial books, see Adámek (2003, pp. 150–167).

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jurisdiction). In the first stage, there are frequent entries about the appointment of the procurator (in particular) for the party that intends to initiate the action. Formulaically, entries draw on relevant documents of this kind. Far rarer are entries in which a party requests citatio or the issuance of a citatio document. There are records of citatio for failure by the summoned party to appear in court. There are actions against the litigant, brought if they had not fulfilled their obligations at one of the stages of the litigation, and more commonly the responses given by the vicar general together with a record of the punishment imposed. There are also some records of testimony given by parties or witnesses, often in the form of information about the produced witnesses (names or only numbers). Most of the entries in questionable entries are notes about the date of the next judicial hearing, without specifying the subject-matter of the dispute (both parties to the dispute and the date are given). Records regarding the pledges of the parties to submit to the decision of the vicar general are rarely recorded. The wording of the judgments does not appear here. Records of the appointment of arbitrators and their testimonies can also be found, these as segments in textual compliance with the usual documents of this kind. One specific group consists of criminal justice records that were created when canonical regulations were violated and the judge acted ex officio. Then, there is a record of the substance of the charge. The process is of an inquisitive nature. The vicar general's orders, the parties' pledges of redress, and the judgments are also present (Hledíková, 1966, pp. 158–160).

The structure of the records regarding questionable juridical procedures changes in the second stage. There are fewer entries on the appointment of the procurator. Emphasis is placed on recording the individual stages of the litigation. Summonses or responses to *libellus* become more common. Records about courts of arbitration also disappear. The decrease in the number of criminal matter records stems from minor changes to the competence of the vicars general and the transfer of criminal competence to the corrector cleri, which occurs at the beginning of the 15th century. What was originally a diverse agenda of private law disputes in the second period resulted in the emergence of disputes over the prebend and disputes regarding law of patronage. These trends continued in the third period (Hledíková, 1966, p. 162). The requirement to record all court proceedings in writing is not fulfilled in the court books remaining to this day. It is therefore likely that detailed records recording the course of court proceedings were kept in addition to the judicial books. These unpreserved, extensive protocols were the starting point for the final verdict in the dispute (Hledíková, 1966, p. 164).

Unquestionable entries in judicial books form an important part of such records. There are file entries and entries of a deed nature. The questionable agenda is significant in the vicar general's court books only in the first period, appearing less and less in subsequent stages. Moreover, the number of file entries gradually decreases, to be replaced by more extensive entries of a deed nature. The influence of Libri erectionum is evident here. This is the most significant change in the court books of the unquestionable judiciary (Hledíková, 1966, pp. 160, 162–163, 169–170).

Concise file entries contain details of the appointment of the procurator, with the aim of exchanging the parish benefice. These are typical for the first period, while in the second period the number of entries on the appointment of procurators for the changes of prebends decreases, in much the same way as in the case of entries regarding procurators in the questionable judiciary. This relates to the fact that the parties ensure the appointment independently of the court. As far as the remaining records are concerned, there is an increase in the quantity of information on church and parish matters. Entries regarding the simple resignation from a parish benefice or resignation in exchange for another parish benefice are common. The consent of the vicar general is

appended. Two witnesses are stated. A smaller number of records provide information about applicants for the benefice, largely on the basis of papal expectance. There are also presentation records and entries in which the patron expresses agreement or disagreement with a change of parish priest (Hledíková, 1966, pp. 160, 162).

Records of financial matters constitute an entirely separate group of records. These are records of debts when one of the parties is a cleric, mostly in the role of debtor. In addition to simple entries, there are also entries with information about the guarantor or a guarantee on property. Records about debts are crossed out after payment. In the absence of a record regarding a debt, there is a separate record of acquittance, whether about gradual payment or full payment of the due amount. One distinct situation is the repayment of a debt through the vicar general himself or through the court scribe, who passed the money on to the creditor. Debt records and acquittances may in some cases be in deed form. The number of debt and acquittance records decreases during the second and third periods of keeping court books, with debt records predominating among them (Hledíková, 1966, pp. 160, 162–163).

Collection of the papal tithe is also recorded, which evidently relates to the personal connection between the vicarage general and the office of the collector of the papal tithe under Jan, Dean of St. Apollinaris. There are various entries on the payment of the tithe by institutions, the extension of the payment date, the appointment of collectors in other dioceses of the ecclesiastical province, and other disposal of the amounts collected. There are also entries about the payment of chimney tax, which went to the archbishop's treasury (Hledíková, 1966, pp. 160–161, 163).

The books also contain records of changes in the ownership of immovable property and various salaries, and changes in the holding of the law of patronage. In exceptional cases, wills and their execution were entered in the books; in such cases, an exception was made for a person close to the keeping of judicial books. Records of the Peace of the Lord between clergy and laymen are ceremonial in nature. They are accompanied by high financial sanctions. Finally, various donations and various contracts may be registered in document form or as a file record. Random records on the verification of documents of other church representatives are also present, containing the name of the issuer and the type of document, without any further specification (Hledíková, 1966, p. 161).

3.3 Corrector Cleri

In the Prague archdiocese, there was also established the specific office of *corrector cleri,* a criminal judge for the clergy, who was charged with supervising the life and morals of the clergy. The office, unparalleled in the neighbouring dioceses of Central Europe, was created at the decision of Arnošt of Pardubice. The oldest evidence of the corrector dates back to the period before 1357, when the archbishop appointed a corrector (only) for the archdeaconry of Bechyně. In the beginning, we can see that correctors visited churches to look for transgressors, though later this practice ceased. From the powers originally delegated, the corrector was transformed into a permanent office for the entire diocese ("for the city and diocese") in the 1380s. Only clerics came under his authority; he administered the archbishop's jail (Hledíková, 1971b, pp. 73–77, 79).

The record books of the corrector cleri (*acta correctoris cleri*) remain only for the years 1407–1410. During that time, twenty-four people were convicted, including seven priests, sixteen clerics, and one lay person. Twenty-seven judgments were handed down. Three of those convicted came from the Olomouc diocese, the others from the Prague

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archdiocese. The court sat on the premises of the Prague archbishop's jail, either in the cell itself or in the room in front of the cell. Some convicts served their punishment in the archbishop's jail in Roudnice nad Labem. The punishment imposed by the court of the corrector consisted of three parts: standing on a pillory for two hours or one hour, imprisonment in the bishop's prison with a term of imprisonment of one to ten years and with posts on Wednesday and Friday, and lifetime expulsion from the diocese, or expulsion from the diocese for a limited period. The severity of the punishment was determined by the degree of consecration, a priest, as the bearer of higher holy order, being judged more severely. Sometimes the term of imprisonment was reduced (Adámek, 2008, pp. 348–350; Hledíková, 2004, p. 514).[7]

3.4 The Episcopal Inquisitor

The beginnings of the episcopal inquisition are tied to a decretal issued by Pope Lucius III, *Ad abolendam*, in 1184, the provision of which is subsequently elaborated in the *Excommunicamus* decree of the 4th Lateran Council (X 5.7.9; X 5.7.13. Prudlo, 2019, pp. 75–76; Kras, 2006, pp. 126–130, 136–138; Schwerhoff, 2004, pp. 21, 24). Otherwise, heresy and the inquisition are considered in the title *De haereticis* of the fifth book of Liber extra and the title of the fifth book of Liber sextus of the same name (X 5.7; VI° 5.2).

Bishop of Prague Jan IV. of Dražice (1301–1343) had already appointed episcopal inquisitors in 1315: Minorite and titular Bishop of Sura, Walter, and dean of the collegiate chapter in Stará Boleslav, Master Tomáš Blažej´s of Prague. The episcopal inquisitor worked as an independent authority in the Prague diocese from the end of the 1420s. He was appointed by an ordinary, to whom he was responsible for his activities. The episcopal inquisitor acted without special instructions and without any specific delimitation of powers by the diocesan bishop. On several occasions, inquisitors were appointed by Archbishop of Prague Arnošt of Pardubice, specifically Siegfried, a Minorite from Görlitz; Lev, prior of the Prague Dominicans; and Svatobor, a Minorite from Jihlava (Soukup, 2010, pp. 148, 153; Hledíková, 2008a, p. 132; Kras, 2015, pp. 394–396).

Under the Prague archbishops of Jan Očko of Vlašim (1364–1378) and Jan of Jenštejn (1378–1395/1396), the prosecution of heretics was taken on to a greater extent by episcopal inquisitors. Auxiliary bishops were appointed episcopal inquisitors as of the 1390s. The interconnection of inquisitors and diocesan apparatus was evident. In the years before Hus' death, the episcopal inquisition shifted from mainly seeking out Waldensian heresy to proceeding against the followers of Hus (Soukup, 2010, pp. 169–170).

In general, in the Prague provincial statutes of 1349 and in the Prague provincial statutes of 1353 (Polc and Hledíková, 2002, p. 153, art. 69; p. 165, art. 1), both provisions valid within the entire ecclesiastical province, including the dioceses of Olomouc and Litomyšl, the inquisitor (whether episcopal or papal) is stated as the person to whom information was to be directed. The episcopal inquisitor is explicitly mentioned only once in the Prague synodal provisions, in 1355. In the synodal protocol recording the provisions of the October Prague diocesan synod of that year, it is emphasised that heretics and those who are influenced by them in the faith, their protectors, and their supporters should be reported to the bishop or his inquisitors (Polc and Hledíková, 2002, p. 175, art. 7). The Olomouc diocesan statutes do not mention the inquisitor at all (cf. Krafl, 2014a). The inventory of the library at Collegium Nationis Bohemicae of Prague University records

[7] For edition, see Adámek, 2018; cf. Adámek, 2011. – On cases considered on the basis of preserved record books see Podlaha, 1921; Adámek, 2008, pp. 343–348; 2005, pp. 97–102; 2006, pp. 44–54.

the presence of the inquisition manual *Forma inquisicionis heretice pravitatis* (Kejř, 1985, p. 51).

3.5 The Judiciary in Bohemia in the Hussite and Post-Hussite Era

The Prague chapter left Prague for Stará Boleslav in June 1420, then came to the archbishop´s town Roudnice nad Labem, after the decision of the Prague archbishop to convert to the Utraquists. In April 1421, the chapter moved to Litoměřice, and, in the end, to the then northern Bohemian town of Žitava (Zittau in Germany today). The dignitaries of the chapter in the position of vicars general assumed all administrative and judicial powers over the archdiocese. Their actions were recorded in books that followed the judicial books of the vicars general, Libri erectionum and Libri confirmationum, and the judicial books of the officialis. Proceedings of the court of administrators from the years 1422–1425 are documented in the Žitava/Zittau Minorite monastery, in some cases in the local parish church. Beginning in the 1430s, proceedings took place in the house where the vicars general lived. The agenda was always managed by two vicars general. The return to Prague enabled them to announce the Compacts of Basel in Jihlava in July 1436 and in Prague in April 1437 (Hledíková, 2015, pp. 63–66; Vodička, 2017, pp. 156–157). With respect to the Žitava/Zittau period, a record book of the judicial activities of the administrators has been preserved, this including records from the years 1427–1433. It contains procedural questionable records, debt obligations, pledges, the repayment of debts, arbitration awards, the appointment of procurators, and records regarding marital disputes. The subsequent book includes entries from the years 1434–1439, matrimonialia until 1440, and, after a break of eight years, further records until 1452. It also served as Liber erectionum. The third preserved book contains entries regarding the action of the court in 1437 and from 1439 to 1440. The proceedings recorded here concerned local Žitava/Zittau affairs and were also held in the house of the local Celestines convent (Hledíková, 2010, pp. 355–356).

The unaligned situation towards the end of the Hussite Revolution led moderate Utraquists to attempt to follow pre-Hussite church organisation. Václav of Dráchov was designated in 1429 as administrator of the Prague archbishopric and officialis, although this information comes from a later tract; he was evidently appointed by Konrad of Vechta, the last archbishop of Prague (+1431), who joined the Hussites. A smaller formulary is preserved in the manuscript of the Municipal Library in Bautzen, containing a set of documents of a judicial nature from 1432, these documents relating to the examination of witnesses. Václav of Dráchov acts here as *administrator in spiritualibus sede vacante*. Judicial hearings were held at the Parish Church of St. Giles in the Prague Old Town. Judgments in matrimonial disputes were read at the Old Town Hall in the presence of two priests and four lay people, burghers, and the officials of the dispute (Marek, 2019, pp. 100, 102–103, 107–108, 114–120).

During the post-Hussite era, the powers of administrators having residence in the Upper Consistory began to apply to Catholics in Bohemia. There was no restitution of the pre-revolutionary state. The overall position of the church in Bohemia in relation to secular power and the unstable situation in the office of administrators did not allow for the growth of the ecclesiastical justice system. The Catholic administrators and their officials began dealing with marital disputes and disputes between priests, and also involved themselves in disputes between monasteries regarding servitude payments, taxes, and fees. At the same time, of course, certain disputes were resolved by secular courts, especially in towns (Macek, 2001, p. 178). During King Jiří of Poděbrady's reign, the scope of Catholic church administration, and thus the territorial competence of the

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administrator's court, was determined by Antonín Mařík in his list of Catholic parishes compiled on the basis of the record books of the administrators (Mařík, 2003, table on pp. 216–238).

The application of criminal justice over the clergy is documented from the Poděbrady era. Disputes over debts, numerous disputes over tithes, and disputes over the award of office or over inheritances were all resolved. Marital disputes were numerous (Mařík, 1984, pp. 139–147; Mařík, 1988, pp. 188–197). Three record books of administrators are available in the Archive of the Prague Metropolitan Chapter, namely No. VI 5, VI 6, and VI 7 from 1454–1464, 1461–1468, and 1467–1471, respectively, and, separately, the record books of administrative commissioners for the Plzeň region, Prokop of Plzeň and Stanislav of Velvary (Mařík, 2001, p. 350, footnote 1; and pp. 336–345).

Entries made in the years 1454–1460 by one administrator, Václav of Krumlov, include in the introductory section the name of the suitor, the name of the defendant, the complaint, and the reply to it. A note of taking the oath might be appended. In more complex cases, the complaint is broken down into individual points (*positiones*). The defendant responded to every point. The reply was recorded either separately or added to the list of *positiones*, with information on an affirmative reply or rejection of the plea. Witness statements are recorded thereafter. The entry includes the name of the witness, the estimated age, and property. The witness was asked which party in the dispute he or she wished would win. Furthermore, the witness was asked whether he or she had amicable relationships with any of the parties and whether he or she had been instructed how to testify. The witness first gave his or her testimony of his/her own accord, then was questioned. The entry is closed with a judgment. As indicated, records in court disputes were made by the administrator himself. Only in unquestionable disputes were documents copied for him in the record book by Jan of Krumlov (Mařík, 2001, p. 339).

A record book of administrator No. VI 11 remains in Prague from the Jagiellonian era, documenting the exercise of jurisdiction in disputes, in particular matrimonial disputes. There are also records of disputes concerning the law of patronage, the usurpation of a parish benefice, complaints against a person owing money, and incomes belonging to the parish benefices. The book is mixed in nature; besides questionable juridical procedures it contains lists of confirmations, lists of ordainees, and in a few cases records of donations. According to records regarding the disputes conducted, the parties to the dispute often had themselves represented by a procurator (Macháčková, 1985, pp. 242, 246–250).

4. CONSERVATOR OF RIGHTS

The Pope could appoint a delegated judge; his position was regulated in *De officio et potestate iudicis delegati* of the first book of Liber extra (X 1.29). The institution of a specific delegated judge, referred to as the conservator of rights, was broadened from the 14th century (X 1.29. Pavloff, 1963, pp. 8–18, here p. 13; Schmutz, 1972, pp. 460–463; Hartmann and Pennington, 2016, pp. 229–243; see also Coureas, 2008, pp. 313–323). The number of conservators of rights set by the Pope rose during the 13th century. Conservators of rights (*iudex et conservator iurium et privilegiorum et libertatum*) were appointed to protect individual ecclesiastical persons and institutions, whether a bishop, an order, a monastery, a clergyman, or a member of the university. Three were always appointed, acting together or one of them alone in agreement with the others. As a rule, these were prominent prelates from the wider region in which the affected institution was

located, including neighbouring dioceses. Sometimes they delegated their powers to deputies, known as *sub-conservators*.

The first appointments of conservators of institutions from Czech dioceses appear in 1312 (for Prague Bishop Jan IV of Dražice), 1322 (for the Cistercian monasteries in Zbraslav, Sedlec, and Osek), 1323 (for the Knights of the Cross with the Red Star), and 1324 (for the Benedictine monastery in Třebíč) (Hledíková, 2013, pp. 219–221).[8] Conservators appointed to protect the rights of the university were to shield its members from outside entities and intervene against those from outside the university who did not respect its privileges. In relation to the university, the institution of conservators of rights was used for the first time in Prague in 1383. The frequency of disputes resolved by conservators of rights appointed to protect a member of the university was highest in the years 1397–1415. Most disputes concerned students, most of them studying at the Faculty of Arts (Stočes, 2005, pp. 30–31, 37–65; Kejř, 1995, pp. 27, 39; Stočes, 2004, pp. 395–411).

5. THE PAPAL INQUISITION

The oldest evidence of the papal inquisition in the Czech lands dates back to 1257. It was in that year that Lambert and Brno Minorite Bartholomew were appointed inquisitors. The beginnings of a permanent papal inquisition date back to 1318, when the Dominican Kolda of Koldice and the Minorite Hartman were appointed inquisitors for the Prague and Olomouc dioceses, meaning two inquisitors for both dioceses. There is evidence of initial opposition to a new authority having jurisdiction. An inquisition manual from Bohemia from the first half of the 14th century is preserved in a manuscript in Wolfenbüttel. Seven inquisitors are documented for the period to which the manual relates. Pope Benedict XII organised a new judiciary over heretics in 1335, when he separated the inquisition in Bohemia and in Moravia. That year, the Dominican Havel *de Novo Castro*, also referred to as Havel of Kosořice, was appointed for the Diocese of Prague, and Petr of Načeradec for the Diocese of Olomouc. A number of protocols have been preserved from Havel's activities, making it possible to reconstruct his work. Papal inquisitors were probably not appointed for the Czech lands from the mid-fourteen-fifties onwards (Soukup, 2010, pp.148–152, 168; Hlaváček, 1957, pp. 526–538; Patschovsky, 1975, pp. 15, 20, 22–23, 93–231; 1979; 1981, pp. 261–272; 2018, pp. 33–46; Kras, 2010, pp. 229–231).

6. UNIVERSITY JUDICIARY

The evolution of the judiciary of Prague University was marked by a gradual transformation from disciplinary proceedings to proper ecclesiastical jurisdiction. The formulation of university autonomy in the founding acts of both the Pope and the King meant recognition of the Rector's jurisdiction, as was customary in general studies. The statutes of 1368 provide for proper jurisdiction "in causis civilibus et iniuriarum". Fully-fledged membership of the university, and therefore protection by the right of the university, was based on matriculation. In the early days of the university, however, the Rector's jurisdiction was not exclusive; his authority was exercised in disciplinary matters and in matters of academic honour. Sanctions only concerned university land and included fines, suspensions from scholastic acts, and expulsion. The option of referral to other courts in other matters was not restricted. The jurisdiction of the rectors of both

[8] For examples from a later period see Krafl (2006, pp. 125–126, 128–130).

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Prague universities (the Three-Faculty University and the Law University) was strengthened in 1374 by an agreement with representatives of the Old City of Prague, according to which those perpetrating violations in the city were handed over to the rector. The appellate court from the rector's court was the court of the archbishop of Prague. By virtue of the privilege of King Wenceslas IV of 1392, masters, doctors, students, and their servants were excluded from the jurisdiction of any courts in the Kingdom of Bohemia. The development of the university justice system was completed by Boniface IX, when, in 1397, he exempted all members of the university from the jurisdiction of the courts of the Prague diocese; they were consequently subordinated only to the rector in civil and criminal matters. The rector had the right to put people in public or private jails (Kejř, 1995, pp. 38–41).

7. PROCEDURAL LAW AND PROCEDURAL MANUALS

In 1306, Clement V defined the *summary process* as a simplified form of the proper Roman-Canonical process. In 1316, the use of the summary process was defined for benefice disputes and disputes over unfair interest, tithes, and marital disputes. In the classical canonical process, the theory of formal proof applied (Hartmann and Pennington, 2016, pp. 74–159; Wetzstein, 2004, pp. 25–202).

Inquisitive proceedings have older roots. The decretal issued by Innocence III., *Qualiter et quando,* proclaimed at the Fourth Council of the Lateran and subsequently adopted in Liber extra, is fundamental here (X 5.1.24). The judge proceeded *ex officio* – that is, on the authority of his office – without waiting for a formal charge to be brought. Proceedings were initiated on the basis of a person's bad reputation (*diffamatio*), the condition here being repeated accusation (Kras, 2006, pp. 89–191; McAuley, 2006, pp. 489–493; Prudlo, 2019, p. 79. Briefly also Lambert, 2000, pp. 146–150, 259–261; Schwerhoff, 2004, pp. 22–25).

Medieval inventories of libraries in the Czech lands provide information on the presence of manuscripts with works on the Roman-Canonical process. *Ordo iudiciarius Tancredi* is known from three manuscripts once belonging to the libraries of the Dominicans in Jablonné and the College of the Bohemian Nation and Reček College (Collegium sanctissimae virginis Mariae) at Prague University; the Augustinians of St. Thomas in Prague owned a summary. The procedural guide *Ordinarius parvus* is found in the manuscripts of the Cistercians in Zlatá Koruna and the College of the Bohemian Nation. The procedural handbook by Bonaguido Arentino was located with the Dominicans in Jablonné. Five manuscripts have been preserved with the *Ordo iudiciarius* of Aegidius de Fuscarariis. *Speculum iuridicale* by Guillaume Durand (The Speculator) ascribes the medieval library catalogues to the Olomouc chapter; Collegium Carolinum; the College of the Bohemian Nation; the monastery in Zlatá Koruna; Přibyslav Janův of Újezdec; the archdeacon of Horšovský Týn; Thomas, parish priest of St. Michael's in Prague; Adam of Nežetice; and Pavel from Prague. Adam of Nežetice and the College of the Bohemian Nation had *Additiones* to the work of The Speculator (written by Ioannes Andreae). Numerous occurrences can be noted in the handbook *Processus Luciferi contra Iesum* by Jacobus de Teramo; medieval inventories register it as being at the library of the College of the Bohemian Nation and College of All Saints, with Adam of Nežetice, and at the monastery in Přední Výtoň, where, in addition to the Latin text, there was also a Czech translation. A number of other references to procedural manuals from medieval catalogues have not been identified (Boháček, 1971, pp. 31–37, 44–46; Kejř, 1985, pp. 50–51; Hlaváček, 2005, p. 299).

Two procedural guides known to us were created in the environment of the Prague Law University, namely *Processus iudiciarius secundum stilum Pragensem* and *Circa processum iudiciarium* (Kejř, 1995, p. 64). The procedural manual *Processus iudiciarius secundum stilum Pragensem* dates back to the years 1386-1389 and was written by Prague officialis and vicar general Mikuláš Puchník (Budský, 2016, pp. 29–42, 114–201; 2010; 2012; 2013). Mikuláš Puchník's procedural manual reflects certain legal customs common in the Prague Consistory, given in the formulations *de more consistorii Pragensis* and *secundum consuetudinem.* Manuscripts from the period stretching from 1390 to the period after 1467 remain to this day, and are now found in libraries in Olomouc, Berlin, Eisleben, Leipzig, Munich (2), Rostock, Graz (2), Wrocław (2), and Gdańsk (2). The manuscript from today's Kaliningrad is known of, but no longer in existence (Budský, 2016, pp. 43, 48–49, 63–77).

A little more recent is the file *Circa processum iudiciarium*, whose author has yet to be identified. This is preserved in nine manuscripts, which are located in Leipzig (3), St. Florian, Prague, Kaliningrad, Kassel, Rajhrad, and Frankfurt am Main, either a procedural manual or a procedural textbook. It was compiled to a fine standard and draws on particular judicial proceedings. The appended documents, created in connection with the dispute, serve as specimens for the compilation of similar documents – they have the character of a formulary (Zelený, 1972, pp. 67–86; Švábenský, 1977, pp. 7–15; Kejř, 1995, pp. 123–129). The Library of the Prague Metropolitan Chapter owns a manuscript that contains *Processus iudiciarius palatii apostolici*, written between 1410 and 1423 (Pořízka, 2000, pp. 42–43).

The influence of canon law on Bohemian secular law was also applied through procedural law, namely in the field of mining law. Italian lawyer Gozzo of Orvieto, educated in Roman and canon law, came to Bohemia at the invitation of Wenceslas II, king of Bohemia, and is probably the author of *Ius regale montanorum* (Krafl, 2014b, p. 238; Bulín, 1956, pp. 91–92). The fourth book of this code is generally characterised as the first attempt to codify the Roman-Canonical process for secular courts in Central Europe (Bulín, 1956, pp. 95, 97, 101–103, 106, 111, 114–116, 119, 124–125; Boháček, 1975, pp. 120–127).

8. OUT-OF-COURT SETTLEMENTS

An out-of-court settlement was a common way of resolving disputes between clerics or church institutions. The main role in this was played by an arbitrator or arbitrators (*arbitri, arbitratores et amicabiles compositores) chosen* by the parties to the dispute. Out-of-court settlements were sometimes preceded by the dispute being heard before one of the ordinary or delegated courts (cf. Kubíčková, 1932, pp. 419–421, Bader 1960, pp. 239–276).[9] The issue of arbiters was normatively regulated in *De arbitris* of the first book of Liber extra (X 1.43).

9. CRITICISM OF THE JUDICIARY BY HUSSITE REFORMERS

One of the criticisms made by pre-Hussite reform theorists was levelled at the negative features of the judiciary, in particular the corruption of judges and the absence of impartiality. Czech reformists, headed by Jan Hus, also dealt with purely theoretical issues, such as the theory of evidence in the canonical process. The first attacks against

[9] Random examples of disputes resolved in this way: Podlaha (1921, p. 49); Krafl (2006, pp. 126–127; 2015, pp. 143–145; 2018, pp. 58–60).

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the theory of judicial evidence had already appeared by the early years of the 15th century. Representatives of the reformist movement were confronted by accusations of heresy. As they had personally experienced during trials at that time, restriction of the open evaluation of evidence by the strict formalism of canonical evidentiary proceedings did not mean suppressing the judges' arbitrariness. On the contrary, it often led to deliberate wrongful convictions, with the use of witness evidence and shielding by procedural laws. The judge did not have the opportunity to step in against a witness when the testimony was formally flawless even though he was not internally convinced of its truthfulness. Jan Hus denounced the rules on the evaluation of witness evidence in a letter to M. Johannes Hübner of January 1404; unjust conviction carried out in accordance with the procedural order is in conflict with the law of Christ. Hus embodied the principle of objective truth and completely rejected the theory of formal evidence. Only a judge who obeyed the law of God guaranteed a fair decision. He also presented a critical assessment of procedural regulations in his lectures at the Faculty of Theology. He regarded false testimony as a grave sin (Kejř, 1964, pp. 36–37; 1955, pp. 92–95; 1965, pp. 9–15; 2009, pp. 104–105).

Of considerable importance is the quaestio *Utrum iudex sciens testes false deponere et accusatum esse innocentem, debit ipsum condempnare,* whose essential parts and much of the argumentation come from John Wycliffe's work *De civili dominio*. The author, whom Jiří Kejř identified as M. Jan of Jesenice, here expresses his opinion that "every judge is to judge according to the command of clear reason". He refers to natural law, which is based on the Holy Scriptures. He also declared that there was no need to respect an unfair judgment and no need to fear one (Kejř, 1954, pp. 19–20, 23–41; 1963, pp. 78, 81; 2006, pp. 212–216). Jan of Jesenice also drew attention to the problem of corruption in the quaestio *Utrum iudex corruptus ferens sentenciam pro parte corrumpente gravius peccat quam pars corrumpens.*[10] The attempt to reject the binding of the court by formal evidence and to emphasise the principle of free discretion according to the conscience of the judge is also evident from the commissioning of a quaestio for an unknown participant in M. Šimon's quodlibet (Kejř, 1964, pp. 37–38).

Jan Hus himself was accused of heresy and was tried before the court of the archbishop of Prague, before the papal court of Roman Rota, and then before the Council Rota of the Council of Constance (cf. Kejř, 2000; 2005). In his work *De sufficiencia legis Christi*, he appealed against the judgment of the Pope to the judgment of Christ, thereby denying the Pope's sovereignty over the Church. The stance which Hus took at the same time negated canon law, which did not recognise such an institution; an appeal against a papal decision was not possible (Kejř, 1999; 2000, pp. 97–101; 2005).

10. CONCLUSION

The law permeating the life of the Roman Catholic Church in varying degrees, particularly in the Middle Ages, from the lowest organisational units to the highest bodies, is a feature that no other religion knows. The development of society from the 13th century was a step forward in civilisation which truly laid the foundations for the later emergence of modern society. During the 14th century, this progress was amplified by the advent of paper as a cheaper material on which to write, which led to the intensive development of officiation and bureaucracy. The church evolved too. Thanks to paper,

[10] The conclusion of the quaestio leads into defence of the Decree of Kutná Hora; Kejř (1954, pp. 1–18; 1964, p. 36). Jesenice's preoccupation with procedural law is also evidenced by no extant writing "Summaria de iustitia et nullitate sententiarum contra Hus"; Kejř (1963, pp. 81–83; 2006, pp. 216–217).

each parish could have its own copy of valid provincial statutes and diocesan statutes, whereas in the period before that, when only parchment was available, the texts of these statutes were available only in the cathedral church and possibly in several leading churches of the diocese. Dissemination of the statutes resulted in better knowledge of these legal norms and the possibility of the stronger application of their provisions. Compliance with such a standard could also be better enforced. This goes hand in hand with the evolution of the ecclesiastical judiciary in the Czech lands, namely the court of the officialis, the court of the vicar general, and the specific court of the corrector cleri, unique in Europe. At the judicial and administrative level, specific agendas were profiled at the central episcopal offices and specialised official books were kept, including court books.

The operation of proper courts in the Archdiocese of Prague was disrupted by the advent of the Hussite Revolution (1420–1434). Judicial powers were thrust into the hands of the administrators of the archbishopric, who kept them all even after the end of the revolution, because the archbishopric was not appointed by the archbishop until 1561 and the proper functioning of the ecclesiastical courts in their original form was not restored.

A specific chapter in the Czech history of ecclesiastical law is the relationship between the Hussite movement and canon law. Hussite theologians criticised the theory of court evidence, which, despite strict formalism, did not prevent unfair convictions. Jan Hus himself had years of experience of the court of the archbishop of Prague and the papal court. In *De sufficiencia legis Christi*, he appeals against the judgment of the Pope to the judgment of Christ, thereby refusing the jurisdiction of the head of the church.

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