

UC Berkeley

LAUC-B and Library Staff Research

Title

Baptism and Reversion in Canon Law (working paper)

Permalink

<https://escholarship.org/uc/item/93c6f647>

Author

Sherwood, Jessie

Publication Date

2021-03-03

Copyright Information

This work is made available under the terms of a Creative Commons Attribution License, available at <https://creativecommons.org/licenses/by/4.0/>

Baptism and Reversion in Canon Law

Jessie Sherwood, Ph.D.

Robbins Collection

University of California Berkeley, School of Law

jcsherwood@law.berkeley.edu

Abstract

Throughout the early Middle Ages, the border between Christian and Judaism was comparatively permeable. Baptised Jews, particularly those baptised under duress, often returned openly to Judaism. While modern scholars of Jewish-Christian relations often assume that medieval canon law always forbade this, a single norm governing converts' return did not begin to emerge until the mid-twelfth century with the *Decretum Gratiani*. The *Decretum* established the pre-eminence of the canon that barred Jewish baptisands' return and acted a catalyst for twelfth-century discussions about the limits of consent and coercion, baptism and conversion. These debates, in turn, provided the foundation for the mandates of the early thirteenth century that did establish the legal boundary between Jew and Christian that would last into modernity: so long as baptisands consented, even if under duress, they were a Christian and could not return to Judaism.

Introduction

During the late eleventh century, Doeck or Idumeus, a lapsed monk and Jewish convert, passed through the abbey of St. Arnulf. Doeck, "another semi-Jew," according to the abbot, had divested himself of the monastic habit, returned to the world and to Judaism, or at least a kind of quasi-Judaism.¹ The abbey's monks attempted to persuade the apostate monk to return to the Church and the monastery, but apparently without success. Doeck had departed St. Arnulf, seemingly quite as freely as he had entered.² Two hundred years later, a Jewish convert, even one who had not willingly embraced Christianity, could not expect to leave the Church so easily, as Baruch, another baptised Jew, discovered to his detriment. Baruch was baptised against his will in Toulouse during the Shepherds' Crusade of 1320. He consulted a priest who informed him that such baptisms were illicit, as indeed they were. Baruch then left Toulouse, moved to Pamiers, and continued his life as a Jew. Within the year, he was before the inquisitorial court of Bishop

¹ Warin, abbot of S. Arnulf, *Epistola 5, Patrologiae cursus completus. Series Latina* (PL), ed. Jacques-Paul Migne, vol. 147, (Paris: Garnier fratres, 1879), 467. "[E]t nobis jam praeteritis annis orationis causa Sanctum Michaellem adeuntibus, et per vos transitum habentibus, ubi etiam benigne satis et liberalissime cum omni charitate et suscepistis et refovistis, nullam penitus mentionem fecistis, nec, ut puto, faceretis nisi Doeck, non primus ille Idumaeus, sed nunc alter semi-Judaeus (cujus nomen vel faciem non cognovi; sed utinam ita vitam ejus laudabilem in bona fama ex veritate cognoscerem, sicut notatur et vituperatur apud nos in mala fama) non inquam ille, aut infamis, sicut dicitur aut laudabilis, sicut cuperem, ex transmarinis partibus ad corrumpendam inter nos pacem, ad vos nunc nuper emersisset; qui, ut audivi, relicto habitu et vita monachica, diu volutatus in volutabro saeculi, jam tandem inebriatus fetore carnalis delectationis, quam ex aureo calice Babylonis usque ad faeces epotavit, nunc tandem pulsatus plus precibus quam minis, non se taliter Christo serviturum, et a via et vita perversa convertendum minatur, nisi in primo initio, non conversionis, sed reversionis suae contra Christi praecepta agat."

² *ibid.*, 467.

Jacques Fournier (the future Pope Benedict XII). After questioning him about the exact circumstances of his baptism, Fournier determined that Baruch was a Christian and so he should remain. Like the monks of St. Arnulf, Fournier tried to persuade Baruch to embrace Christianity. Unlike the monks of St. Arnulf, Fournier had both an established legal criteria that defined Baruch as a Christian and the weight of inquisitorial authority behind him; and unlike Doeck, Baruch ultimately acquiesced.³

Baruch and Doeck's divergent fates exemplify a profound transformation in the ways in which medieval Christian authorities understood and defined the boundaries between Christianity and Judaism, Christian and Jew.⁴ Throughout much of the early and central Middle Ages, baptised Jews like Doeck and Baruch, particularly those who underwent the sacrament unwillingly, were able return to Judaism.⁵ From the mid-twelfth century onwards, such passages became increasingly arduous, and by the fourteenth century the boundary between the two religions, at least in so far as it was defined by Christian authorities, admitted movement in one direction only.⁶ Arguably this metamorphosis was the result of myriad, complex changes in medieval thought and society. Elsewhere, I have explored the role of crusading violence and "backsliding" baptisands in precipitating these changes.⁷ Here, I will turn to the origins and development of the legal criteria that determined whether a baptised Jew was to be considered a Christian according to canon law, with particular focus on the decades between the publication of the *Decretum Gratiani* in the twelfth century and the promulgation of the *Decretales Gregorii*, or *Liber Extra*, in 1234.

That baptised Jews and other non-Christians were barred from returning to their religions by the later medieval Church is well established, but how this rule came into being has not been.

³ *Le registre d'Inquisition de Jacques Fournier: Évêque de Pamiers (1318–1325)*, ed. Jacques Duvernoy (Toulouse: Édoard Privat, 1965), 1:177–90; Solomon Grayzel, "The Confession of a Medieval Jewish Convert," *Historia Judaica* 17 (1955): 1:89–120.

⁴ Jewish authorities had, of course, their own definitions. See, e.g., Sylvia-Anne Goldberg, "Lien de sang — lien social. Matrilinearité, convertis et apostats, de l'Antiquité tardive au Moyen Âge," *Clio* 44 (2016): 171-200; Simha Goldin, "Juifs et juifs convertis au moyen âge: 'Es-tu encore mon frère?'," *Annales - HSS* 54:4 (1999): 851-874; Ephraim Kanerfogel, "Approaches to Conversion in Medieval European Rabbinic Literature from Ashkenaz to Sefard," in *Conversion, Inter-marriage, and Jewish Identity*, ed. Robert Hirt et al. (New York: The Michael Scharf Publication Trust of the Yeshiva University Press, 2015), 217-57; Paola Tartakoff, *Conversion, Circumcision, and Ritual Murder in Medieval Europe* (Philadelphia: University of Pennsylvania Press, 2020); Kristine Utterback, "Conversion Revert: Voluntary and Forced Return to Judaism in the Early Fourteenth Century," *Church History* 64 (1995): 16-28.

⁵ As late as 1189, the Archbishop of Canterbury allowed a forcibly baptised Jew to revert openly, albeit to the chagrin of his chronicler. Roger Hoveden, *Chronica, pars posterior*, ed. William Stubbs, Rolls Series 51 (London: H.G. Bohn, 1853; repr. [New York]: Kraus Reprint, Ltd., 1964), 12-13.

⁶ Jews converting to Christianity would still find this border to be highly impermeable in practice. See, Paola Tartakoff, "Testing Boundaries: Jewish Conversion and Cultural Fluidity in Medieval Europe, c.1200-1391," *Speculum* 90.3 (2015): 744-62; Jessica Marin Elliot, "Jews 'Feigning Devotion': Christian Representations of Converted Jews in French Chronicles Before and After the Expulsion of 1306," in *Jews and Christians in Thirteenth-Century France*, ed. Elisheva Baumgarten and Judah D. Galinsky (New York: Palgrave Macmillan, 2015), 169-182.

⁷ Sherwood, "Legal Responses to Crusade Violence," in *Religious Minorities in Christian, Jewish, and Muslim Law (5th-15th Centuries)*, Nora Berend, Youna Hameau-Masset, Capucine Nemo-Pekelman, and John Tolan, ed. (Brepols, 2017).

There are numerous studies on conversion, forced baptism, apostasy, and Jewish-Christian relations that discuss such returns, or reversions.⁸ Ecclesiastical prohibitions against reversion during the high Middle Ages are briefly referenced in a number of discussions of the Jews' status within canon law.⁹ Several scholars — most notably Benjamin Z. Kedar, Marcia Colish, Elsa Marmursztejn, Christine Magin, Francis Czerwinski, and Richard Helmholz — have delved more deeply into medieval canonists' definitions of reversion and prohibitions against it, but their work is primarily concerned with forced baptism rather than its aftermath.¹⁰ Moreover, many of these studies begin from the premise that an established norm, which consistently barred reversion, existed. Most of the research on coercive conversion centres on the high and later Middle Ages, when such a norm did exist. Marmursztejn and Colish's insightful studies of forced baptism, which delve most deeply into this issue, skip from the canons that proscribed reversion issued in the seventh century, when such a norm arguably did not exist, to twelfth-century commentaries on these canons. They build on the supposition, articulated by Marmursztejn, that "la formule du baptême forcé illicite, mais valide" was recorded in the legislation of the seventh-century Toledan councils, transmitted in canonical collections of the seventh through ninth centuries, set in stone by the *Decretum Gratiani* during the twelfth century, and relayed to and re-

⁸ See, *inter alia*, Jeremy Cohen, *Living Letters of the Law: Ideas of the Jew in Medieval Christianity* (Berkeley and Los Angeles: University of California Press, 1999), 75-77, 102-103; Simha Goldin, *Apostasy and Jewish Identity in High Middle Ages Northern Europe: "Are You Still My Brother,"* trans. Jonathan Chipman (Manchester: Manchester University Press, 2014), 43-44; Sean Eisen Murphy, "Concern about Judaizing in Academic Treatises on the Law, c. 1130-c.1230," *Speculum* 82.3 (2007): 561-62; Kenneth Stow, *Alienated Minority: The Jews of Medieval Latin Europe* (Cambridge, Mass.: Harvard University Press, 1992), 118-19, 262-63; Benjamin Ravid, "The Forced Baptism of Jews in Christian Europe: An Introductory Overview," in *Christianizing Peoples and Converting Individuals*, ed. Guyda Armstrong and I.N. Wood (Turnhout: Brepols, 2000), 157-167; Matthew Tapie, "Spiritualis Uterus: The Question of Forced Baptism and Thomas Aquinas's Defense of Jewish Parental Rights," *Bulletin of Medieval Canon Law* n.s. 25 (2018): 290-92, 294-301; Paola Tartakoff, *Conversion, Circumcision, and Ritual Murder in Medieval Europe* (Philadelphia: University of Pennsylvania Press, 2020), 40, 99-108; Jennifer Hart Weed, "Aquinas on the Forced Conversion of Jews: Belief, Will, and Toleration," in *Jews in Medieval Christendom: "Slay Them Not,"* ed. Kristine Utterback and Merrall Pierce (Leiden: Brill, 2014), 129-30.

⁹ John Gilchrist, "The Perception of Jews in the Canon Law in the Period of the First Two Crusades," *Jewish History* 3.1 (1988): 13; Friedrich Lotter, "Geltungsbereich und Wirksamkeit des Rechts der kaiserlichen Judenprivilegien im Hochmittelalter," *Ashkenaz* 1 (1991): 49-50; Walter Pakter, *Medieval Canon Law and the Jews* (Ebelsbach: Verlag Rolf Gremer, 1988), 82, 317; Kenneth Pennington, "Gratian and the Jews," *Bulletin of Medieval Canon Law* 31 (2014): 116-19; *idem*, "The Law's Violence Against Medieval and Early Modern Jews," *Rivista Internazionale di Diritto Comune* 23 (2012): 27-30.

¹⁰ Mario Condorelli, *I fondamenti giuridici della tolleranza religiosa: nell'elaborazione canonistica dei secoli xii-xiv* (Milan: Dott. A Giuffrè, 1960), 20-67; Marcia Colish, *Faith, Fiction, and Force in Medieval Baptism Debates* (Washington, D.C.: The Catholic University Press, 2014), 227-250, 280-299; Francis Czerwinski, "The Teachings of the Twelfth and Thirteenth Century Canonists about the Jews," (Ph.D. diss., Cornell University, 1972), 143-200; Helmholz, "Baptism in Medieval Canon Law," *Zeitschrift des Max-Planck-Instituts für europäische Rechtsgeschichte* 21 (2013): 121; Benjamin Kedar, "Muslim Conversion in Canon Law," in *Proceedings of the Sixth International Congress of Medieval Canon Law*, ed. Stephan Kuttner and Kenneth Pennington (Vatican City: Biblioteca Apostolica Vaticana, 1985), 328-29; *idem*, *Mission and Crusade: European Approaches toward the Muslims* (Princeton, N.J.: Princeton University Press, 1984), 72-74; Christine Magin, "Wie es umb der Iuden Recht Stet": *Der Status der Juden in spätmittelalterlichen Rechtsbüchern* (Göttingen: Wallstein, 1999), 164-185; Elsa Marmursztejn, *Le baptême forcé des enfants juifs: question scolastique, enjeu politique, échos contemporains* (Paris: Les Belles Lettres, 2016), 39-40, 193-210.

established in the decretal *Maiores* in 1201.¹¹ This teleological arc is accurate in its outlines, but it obscures the contradictory canons, decretals, collections, and commentaries that suggest the process by which reversion became all but impossible under canon law was both complex and contested.

Between the sixth and eleventh centuries, popes and councils issued several conflicting dictates on coercion and reversion, which canonical collections copied and circulated to varying degrees throughout the central Middle Ages. Arguably, a juridic norm did not begin to emerge until the eleventh century, and was not fully established until the mid-twelfth century with the *Decretum Discordantium Canonum*, or *Decretum Gratiani*. Even then, canonists do not seem to have been in complete or universal agreement about the exact circumstances under which a forced baptism was valid or, for that matter, illicit, much less when its recipients were free to return to their own religion. The *Decretum Gratiani*, rather than setting the norm in stone, acted as a catalyst for discussions about the limits of consent and coercion, baptism and conversion among the canonists who commented on the *Decretum Gratiani* and tried to reconcile the contradictions within it. Often in dialogue and debate with each other, they tried to determine why and under what circumstances the canons made forced baptisms valid and thus binding. Their commentaries became the intellectual scaffolding for thirteenth-century decisions, most notably *Maiores*, which authoritatively barred the return of converts, willing and unwilling, to their previous religious identities.

Reversion in early medieval canon law

Early conciliar canons and papal decretals on the question of reversion, which were often promulgated in response to specific queries and peculiar circumstances, not infrequently produced dictates at odds with their predecessors and each other. They alternately forbade compulsion and implicitly allowed reversion, explicitly demanded that false converts return to Judaism, prohibited coercion and reversion alike, and prescribed the expulsion of Jews who would not accept baptism. Certainly, a measure of consensus is evident in the law and theology of the late patristic and early medieval periods, but it was neither permissive of coercion nor intolerant of reversion. Rather, the general expectation was that converts from Judaism should be absolutely sincere and entirely committed.¹² Such was the importance of sincerity that one fifth-

¹¹ Marmursztejn, *Le baptême forcé des enfants juifs*, 193, see also 40, 193-269; Colish, *Faith, Fiction, and Force*, 245-49, 281-82, 312; Pakter, *Medieval Canon Law and the Jews*, 317; Tapie, "Spiritualis Uterus," 294-301. It is understandably common for scholars in the areas of Jewish studies or Jewish-Christian relations to work from the assumption that reversion had been consistently barred throughout the Middle Ages or that the metric used in Baruch's case was long-established, see, e.g., Stow, *Alienated Minority*, 49; Daniel Soukup, "Apostatrix gens: The First Crusade and Criticism of the Reversions of Jews in Cosmas's *Chronica Boëmorum* (*Chronicle of the Bohemians*)," in *Colloquia mediaevalia Pragensia: Juden in der mittelalterlichen Stadt / Jews in the medieval town 7* (2015): 17-20.

¹² See, *inter alia*, Peter Brown, "Religious Coercion in the Later Roman Empire: The Case of North Africa," in *Religion and Society in the Age of St. Augustine* (London: Faber and Faber, 1972), 301-334; *idem*, "St. Augustine's Attitude to Religious Coercion," *Journal of Roman Studies* 54 (1964): 107-116; Bernard Blumenkranz, *Les auteurs chrétiens latins du moyen-âge sur les juifs et le judaïsme*, (Paris: Mouton, 1963), 33; Colish, *Faith, Fiction, and Force*, 230-231. Why coercion was permitted for pagans and heretics rather than for Jews is a complicated discussion of its own.

century imperial edict even instructed imperial judges to return Jews who failed to adhere to Christianity “to their own law.”¹³ While not insisting on the reversion of the insincere, the Council of Agde stipulated that Jewish converts should undergo an eight-month catechumenate — a substantial increase over the usual 7 to 40 days of the period — on the grounds that Jews were particularly liable to revert.¹⁴

Gregory I (540-604), while somewhat less adamant about the sincerity of Jewish converts, insisted that converts from Judaism should be voluntary ones.¹⁵ In response to reports that Jews in the region were being led to the font by force rather than faith, Gregory wrote to the bishops of Arles and Marseille warning them that their zeal, though laudable would ultimately be inefficacious (*Scribendi ad fraternitatem*, later *Plurimi Iudaicae religionis*). He explained that, “when someone comes to the font of baptism, not by the sweetness of preaching, but by necessity, returning thence to their former superstition, they die in a worse state, since they seemed to have been reborn.”¹⁶ Thus, Gregory not only forbade coerced conversions, he also implied that Jews baptised contrary to his edict would, and so presumably could, return to their natal religion. Gregory was so adamant about Jewish converts’ willingness that he forbade indirect methods of coercion. In a letter to the bishop of Naples of 602 (*Qui sincera*), he chided the prelate for allowing some of his flock to hinder the local Jews’ celebration of their

¹³ *Codex Theodosianus* 16.8.23, *Theodosiani Libri XVI cum Constitutionibus Sirmonidianis*, ed. Theodor Mommsen and Paul Meyer (Berlin: Weidmanns, 1905), 1.2:893. “Unde provinciarum iudices, in quibus talia commissa perhibentur, ita nostris famulatum statutis deferendum esse cognoscant, ut hos, quos neque constantia religiosae confessionis in hoc eodem cultu inhaerere perspexerint neque venerabilis baptismatis fide et mysteriis inbutos esse, ad legem propriam, quia magis Christianitati consulitur, liceat remeare.” See also, *Codex Theodosianus* 9.45.2, p. 519; Colish, *Faith, Fiction, and Force*, 230-231.

¹⁴ Council of Agde, c. 34, *Concilia Galliae* (314-506), CCSL 49 (Turnhout, 1974), 207-208. See also, Marcia Colish, “Fictive Baptism in the Early Middle Ages,” *Archa Verbi* 6 (2009): 15; Peter Cramer, *Baptism and Change in the Early Middle Ages, c. 200-c. 1150* (Cambridge and New York: Cambridge University Press, 1993), 130-78; Yitzak Hen, *Culture and Religion in Merovingian Gaul, A.D. 481-751* (New York: E.J. Brill, 1995), 156-57; Pakter, *Medieval Canon Law*, 321-30; Bryan Spinks, *Early and Medieval Theologies of Baptism: From the New Testament to the Council of Trent* (Aldershot & Burlington, Vt.: Ashgate, 2006), 109-114; T.C. Akeley, *Christian Initiation in Spain, 300-1000* (London: Darton, Longman & Todd, 1967), 47-51, 123.

¹⁵ Bernard Blumenkranz, *Juifs et chrétiens dans le monde occidental, 430-1096* (Paris: Mouton & Co., 1960), 98-99; Bruno Jadic, “Grégoire le Grand et les juifs. Pratique juridique et enjeux théologiques,” in *Jews in Early Christian Law: Byzantium and the Latin West, 6th-11th Centuries*, ed. John Tolan et al. (Turnhout: Brepols, 2014), 105-110; Amnon Linder, *The Jews in the Legal Sources of the Early Middle Ages* (Detroit: Wayne State University Press, 1997), 438-39, 442-43; Shlomo Simonsohn, *The Apostolic See and the Jews: History* (Toronto: Pontifical Institute of Medieval Studies, 1991), 253-257.

¹⁶ *Scribendi ad fraternitatem*, *Registrum* 1.45, in *Registre des Lettres*, ed. Pierre Minard, vol. 1 (Paris: Les éditions du CERF, 1991), 228. “Dum enim quispiam ad baptismatis fontem non praedicationis suauitate sed necessitate peruenit, ad pristinam superstitionem remeans inde deterius moritur, unde renatus esse uidebatur.” See also, Blumenkranz, *Juifs et chrétiens*, 95-7; Jadic, “Grégoire le Grand et les juifs,” 116; Ravid, “The Forced Baptism of Jews in Christian Europe,” 158; Rebecca Rist, *Popes and Jews, 1095-1291* (New York, NY: Oxford University Press, 2016), 10, 74-75, 77.

solemnities, as “it profits nothing toward their conversion to the faith.”¹⁷

Despite these prohibitions, Jews were sometimes coerced into baptism throughout the Middle Ages.¹⁸ During the early Middle Ages, however, they do not seem to have been compelled, or even expected, to remain Christians.¹⁹ Writing some fifty years after Gregory I, Braulio of Saragossa confirmed, albeit incredulously, that an allowance for reversion was the existing policy: “it is reported to us that baptised Jews were allowed to return to the superstition of their own religion by the venerable sayings of the Roman prince.”²⁰ Braulio was, of course, writing in the aftermath of Visigothic Spain’s unsuccessful experiments with compulsory baptism, which had prompted a new and conflicting body of canons.²¹ As Gregory had predicted, few, if any, of the Jews thus baptised became enthusiastic converts or, indeed, Christians of any sort. If the surviving sources are any guide, unwillingly baptised Jews frequently returned to

¹⁷ *Qui sincera*, *Registrum* 13.15 [13.13], ed. Louis Hartman, *Monumenta Germaniae Historica (MGH) Epistolae*, vol. 2, (Berlin: Weidmanns, 1890), 383; Document 28, *The Apostolic See and the Jews: Documents: 492-1404*, ed. Shlomo Simonsohn (Toronto: Pontifical Institute of Medieval Studies, 1988), 24. “Nam quid utilitatis est, quando, et si contra longum usum fuerint vetiti, et conversionem nihil illis conuersionem nil proficit?” Where possible, I have used the most recent edition of Gregory’s letters, and otherwise have consulted the MGH and Simonsohn’s editions. See also, Magin, *Der Status der Juden*, 164.

¹⁸ *Letter on the Conversion of the Jews*, ed. Simon Bradbury (Oxford: Clarendon Press, 1996); *Vita beati Ferreoli episcopi et confessoris Christi*, in *Catalogus codicum hagiographicorum Latinorum* (Brussels: Bollandists, 1889-1893), 2:101-102; Gregory of Tours, *Historia Francorum* 5.11, in *Zehn Bücher Geschichten*, ed. Bruno Krusch and Rudolf Buchner (Darmstadt: Wissenschaftliche Buchgesellschaft, 1970), 294-298; Venantius Fortunatus, *Carmina* 5.5, ed. Frederich Leo, *MGH Auctores antiquissimi*, vol. 4.1 (Berlin: Weimanns, 1881), 107-12; *Gesta Dagoberti I*, ed. Bruno Krusch, *MGH Scriptores rerum Merovingicarum*, vol. 2 (Hannover: Hahnsche Buchhandlung, 1888), 409; Pseudo-Fredegar, *Chronicon* 5.65, *MGH Scriptores rerum Merovingicarum*, vol. 2, 153; *Vita Sulpicii Episcopi Biturgi*, 4, ed. Bruno Krusch, *MGH Scriptores rerum Merovingicarum*, vol. 4 (Hannover: Hahnsche Buchhandlung, 1902), 374-5; Bernard Bachrach, *Early Medieval Jewish Policy in Western Europe* (Minneapolis: University of Minnesota Press, 1977), 53-61; Blumenkranz, *Juifs et chrétiens*, 97-105, 134-138; Michel Rouche, “Les baptêmes forces de Juifs en Gaule mérovingienne et dans l’empire d’Orient,” in *De l’antijudaïsme antique à l’antisémitisme contemporain*, ed. Valentin Nikiprowetsky (Lille: Presses Universitaires de Lille, 1979), 105-24; Dumézil, *Les racines chrétiennes de l’Europe*, 88-93.

¹⁹ Walter Goffart, “The Conversions of Avitus of Clermont, and Similar Passages in Gregory of Tours,” in *To See Ourselves as Others See Us: Christians, Jews and “Others” in Late Antiquity*, ed. Jacob Neusner and Ernest S. Frerichs (Chico, Calif.: Scholars Press, 1985), 473-497.

²⁰ Braulio of Saragossa, *Epistola* 21, *Epistolario de San Braulio*, ed. Luis Riesco Terrero (Seville: Editorial Católica Española, 1975), 112. “Nam et ad nos perlatum est, quod tamen incredibile nobis nec omnino creditum est, oraculis venerabilis [sic] Romani principis permissum esse Iudeis baptizatis reuerti ad supprestitutionem [sic] sue religionis.” See also, Blumenkranz, *Juifs et chrétiens*, 165; Alberto Ferreira, “St. Braulio of Zaragoza’s *Letter* 21 to Pope Honorius I Regarding Lapsed Baptized Jews,” *Sacris Erudiri* 48 (2009): 78-83.

²¹ There are numerous studies on Visigothic Spain and its Jewish policies, see, *inter alia*, Roger Collins, *Visigothic Spain, 409-711* (Malden, Mass.: Blackwell Publishing, 2004); Bruno Duzmeil “Juifs et convertis en Espagne wisigothique dans le premier tiers du VIIe siècle,” in *Cristianos y Judíos en contacto en la Edad Media, polémica, conversión, dinero y convivencia*, ed. Flocel Sabate i Curull and Claude Denjean (Lledia: Editorial Milenio, 2009), 327-345; Raul González Salinero, *Las conversiones forzadas de los judíos en el reino visigodo* (Rome: Consejo Superior de Invesitgaciones Científicas, 2000); Rachel Stocking, *Bishops, Councils and Consensus in the Visigothic Kingdom, 589-633* (Ann Arbor: University of Michigan Press, 2000); *idem*, “Forced Converts,” in *Jews in Early Christian Law*, 243-265.

Judaism, often with the consent, even the abetment, of Christian authorities.²² Unlike Gregory, who had pointed to such backsliding as an argument against compulsion, Visigothic ecclesiastical authorities attempted to legislate reluctant baptisands into obedient sons and daughters of the Church.

The Fourth Council of Toledo, convened in 633, issued a series of canons that prohibited forced baptisms and then tried to enforce those already effected. The first of these canons, canon 57 (*De Iudaeis*), decreed:

[Jews] are to be induced by the free use of their will to convert rather than impelled by force. But, whoever has already been compelled to come to Christianity, as was done in the time of the most pious prince Sisebut, because they have already been associated with the divine sacraments — having received the grace of baptism, been anointed with the chrism, and shared in the Lord's body and blood — it is fitting that they be compelled to keep the faith which they have received by force or by necessity, lest the Lord's name be blasphemed and the faith which they received deemed worthless or contemptible.²³

In addition, canon 59 (*Plerique ex Iudaeis*) demanded that those Jews "lately brought to the Christian faith" who yet observed Jewish rites, be corrected by their bishops, recalled to Christianity, and their circumcised sons and slaves removed from their households.²⁴

There is little evidence that these canons were effective or enforced either in Visigothic Spain or elsewhere,²⁵ nor does the extant body of early medieval canon law indicate that the Visigothic canons immediately or universally supplanted all others.²⁶ New and conflicting edicts

²² Isidore of Seville, *Historia de regibus Gothorum, Vandalorum et Suevorum* 60, ed. Theodor Mommsen, MGH Auctores antiquissimi, vol. 11 (Berlin: Weidmanns, 1894), 480; *Leges Visigothorum* 12.2.4, 12.2.10, 12.2.16, 12.2.17, 12.2.18, 12.3.3, 12.3.9, 12.3.14, ed. Karl Zeumer, MGH Legum nationum Germanicarum, vol. 1 (Hannover: Hahnsche Buchhandlung, 1902), 410-456.

²³ Fourth Council of Toledo (hereafter Toledo IV), c. 57, *Concilios Visigóticos e Hispano-Romanos*, ed. José Vives (Barcelona: Consejo Superior de Investigaciones Científicas, 1963), 211; Notice n°1051, projet RELMIN, «Le statut légal des minorités religieuses dans l'espace euro-méditerranéen (V^e- XV^esiècle)», Edition électronique Telma, IRHT, Institut de Recherche et d'Histoire des Textes - Orléan <http://telma.irht.cnrs.fr/outils/relmin/extrait30473/>. "Qui autem iam pridem ad christianitatem venire coacti sunt, sicut factum est temporibus religiosissimi principis Sisebuti, quia iam constat eos sacramentis divinis adsociatos et bapismi gratiam suscepisse et chrismate unctos esse et corporis Domini et sanguinis exstitisse participes, oportet ut fidem etiam quam vi vel necessitate susceperunt tenere cogantur, ne nomen Domini blasphemetur, et fidem quam susceperunt vilis ac contemptibilis habeatur."

²⁴ Toledo IV c. 59, *Concilios Visigóticos*, 211-12; Notice n°1058, projet RELMIN, <http://www.cn-telma.fr/relmin/extrait1058/>. "Plerique qui ex iudaeis dudum ad christianam fidem promoti sunt, nunc blasphemantes in Christo non solum iudaicos ritus perpetrasse noscuntur, sed etiam abominandas circumcisiones exercere praesumerunt: de quibus consultu piissimi ac religiosissimi principis domini nostri Sisenandi regis hoc sanctum decrevit concilium, ut huiusmodi transgressores pontificali auctoritate correcti ad culum christiani dogmatis revocentur, ut quos voluntas propria non emendat animadversio sacerdotalis coerceat."

²⁵ Blumenkranz, *Juifs et chrétiens*, 81-100; Roger Collins, *Early Medieval Spain: Unity in Diversity, 400-1000*, 2d ed. (Hampshire and London: MacMillan Press, 1995), 130; Goffart, "The Conversions of Avitus of Clermont, and Similar Passages in Gregory of Tours," 473-74.

²⁶ Toledo IV was, after all, a provincial council and one which allowed for single-immersion baptisms. Toledo IV, c. 6, *Concilios Visigóticos*, 191-93.

on coercion and reversion also continued to be issued through the eleventh century. The ecumenical council held at Nicaea in 787, a provincial council at Erfurt in 932, and a papal decretal issued in 937 variously mandated the return of insincere converts and explored the possibility of expelling Jews who would not convert. Nicaea II's eighth canon, like the *Codex Theodosianus*, insisted that false converts "should openly be Hebrews, following their own religion, and their sons should not be baptised."²⁷ Although Nicaea II was not widely adopted in Latin Christendom or explicitly confirmed by the papacy, Pope Hadrian I sent representatives to the council, had its canons translated and promulgated, and then defended them against imperial outrage over icons.²⁸ Conversely, the Council of Erfurt in 932 and Pope Leo VII in 937 suggested that coercion might be permissible. The Council incorporated a letter, which, according to its *breviarium*, "ordered that all Jews dwelling among Christians should either be baptised or exiled from all Christendom."²⁹ Leo VII, similarly, instructed the archbishop of Mainz to preach Christianity to the Jewish community, but "if [the Jews] do not wish to believe, expel them from your communities with our authority."³⁰ Nonetheless, he concluded that Jews

²⁷ Council of Nicaea II, c. 8, *Conciliorum oecumenicorum generaliumque decreta editio critica*, ed. Giuseppe Alberigo et al. (Turnhout: Brepols, 2006), 1:328-29. "Quoniam errantes hi qui ex Hebraeorum superstitione consistunt, subsannare se Christum deum, existimant, simulantes christianizare, ipsum autem negant, clam et latenter sabbatizantes, et alia Iudeorum more facientes, diffinimus hos neque in communionem, neque in oratione, neque in ecclesia suscipi — sed manifeste sint secundum religionem suam Hebraei — neque pueros eorum baptizari neque servum emi vel acquiri." See also, Hans Georg Thümmel, *Die Konzilien zur Bilderfrage im 8. und 9. Jahrhundert: das 7. Ökumenische Konzil in Nikaia 787* (Paderborn: Ferdinand Schöningh, 2005), 187; Robert Bonfil, "Continuity and Discontinuity," in *Jews in Byzantium: Dialectic of Minority and Majority Cultures*, ed. Robert Bonfil et al. (Leiden and Boston: Brill, 2012), 80; Amnon Linder, "The Legal Status of Jews in the Byzantine Empire," in *Jews in Byzantium*, 201.

²⁸Edward Synan claimed that Hadrian refused to sign this canon into law, but cited no source for this claim, and I can find no evidence that Hadrian or anyone else even objected to the Council on the grounds of this canon. Synan mis-ascribed *De Iudaeis* to Gregory IV in the next paragraph. *The Popes and the Jews in the Middle Ages* (New York: The Macmillan Company, 1965), 58-59. On the council and its reception, see, *Le Liber pontificalis*, ed. Louis Duchesne (Paris: E. Thorin, 1886), 1:312; Hadrian I, *Epistolae Hadriani I papae 2, Epistolae Karolini aevi*, ed. Ernest Dümmler, MGH Epistolae, vol. 3 (Berlin: Weidmanns, 1899), 5-57; Jean Gaudemet, "Le deuxième concile de Nicée (787) dans les Collections canoniques occidentales," *Annuaire historique conciliorum: Internationale Zeitschrift für Konziliengeschichtsforschung* 21 (1989), 278-288; Bronwen Neil, "The Western Reaction to the Council of Nicaea II," *The Journal of Theological Studies* n.s. 51:2 (2000): 533-52; Erich Lamberz and Johannes Uphus, "Nicaenum II," *Conciliorum oecumenicorum*, 1:299-300; Thümmel, *Die Konzilien zur Bilderfrage*, 205-206, 215-3.

²⁹Council of Erfurt, *Breviarum canonum, Die Konzilien Deutschlands und Reichsitaliens 916-1001: Teil 1: 916-961*, ed. Ernst-Dieter Hehl, MGH Concilia, vol. 6.1 (Hannover: Hahnsche Buchhandlung, 1987), 111. "Et ob id precipiebatur in eadem epistola, ut omnes Iudei inter christianos commorantes aut baptizarentur aut a tota christianitate excluderentur."

³⁰ Leo VII, *Fraternitatis amore constringimur, Papsturkunden, 896-1046*, ed. Harald Zimmermann (Wien: Österreichischen Akademie der Wissenschaften, 1984), 1:134. "Si autem credere noluerint, de civitatibus vestris cum nostra auctoritate illos expellite; qui non debemus cum inimicis Dei societatem habere dicente apostolo." This letter's authenticity has been questioned by Kenneth Stow, on the grounds that it does not accord with sixteenth-century papal policy. See "The Pitfalls of Papal Documentary History: Simonsohn's 'Apostolic See and the Jews'," *Jewish Quarterly Review* n.s. 85.3-4 (1995), 399; Linder, *Legal Sources*, 447; Friedrich Lotter, *Der Brief des Priesters Gerhard* (Sigmaringen: J. Thorbecke, 1975), 46-48, 92-98.

should not be baptised “without their desire or request.”³¹ Leo, moreover, quoted the gospel of Matthew, rather than an earlier canon or decretal, to support this conclusion.

Even those prelates who recalled, or appear to have recalled their predecessors, did not refer to the same ones. Writing sometime around 1065, Pope Alexander II cited Gregory I in his letter to Landulf, the prince of Benevento, (*Licet ex devotionis*). Alexander reminded the prince that, “our Lord Jesus Christ is understood to compel no one to his service by violence” and that, “the blessed Gregory forbade this in his own epistle.”³² Clement III (1029-1100), the antipope installed by Henry IV of Germany (1054-1105), on the other hand, may have alluded to Toledo IV when he asked that the bishop of Bamberg and his fellow prelates “following canonical decree and according the example of the fathers, hasten to correct [the returning Jews], lest the sacrament of baptism and the salvific invocation of God’s name should seem to be annulled” after the mass reversions of Jews forcibly baptised by crusaders in 1096.³³

This profusion of norms and edicts was, of course, quite consistent with the overall state of early medieval canon law.³⁴ It is also reflected in the early canonical collections. *De Iudaeis* and *Plerique ex Iudaeis*, along with other Toledan canons, appear in several compilations, influential and otherwise, including the *Collectio Hispana*, *Collectio Hispana systematica*, *Pseudo-Isidorian decretals*, *De fugiendis contagiis Iudeorum*, and Regino of Prüm’s (d. 915) *De*

³¹ Leo VII, *Fraternitatis amore constringimur*, *Papsterkunden*, 1:134. “Per virtutem autem et sine illorum voluntate atque petitione nolite eos baptizare, qui scriptum est: *Nolite sanctum dare canibus et nolite mittere margaritas vestras ante porcos, ne forte conculcent eas pedibus suis.*”

³² *Licet ex devotionis*, Doc. 39, *Apostolic See and the Jews: Documents*, 37. “Dominus enim noster Iesus Christus nullum legitur ad sui servitium violenter coegisse, sed humili exhortacione, riservata unicuique proprii arbitrii libertate, quoscumque ad vitam praedestinavit aeternam non iudicando, sed proprium sanguinem fundendo ab errore revocasse. Item Beatus Gregorius, ne eadem gens ad fidem violentia trahatur, in quadam sua epistola interdicat.” See also, Rebecca Rist, *Popes and Jews, 1095-1291* (Oxford: Oxford University Press, 2016), 10-11, 75-76; Simonsohn, *Apostolic See and the Jews: History*, 43.

³³ *Quod contra Ecclesiae*, Doc. 42, *Apostolic See and the Jews: Documents*, 42. “Quod quia inauditum est et prorsus nefarium, te et omnes fratres nostros verbo Dei constringimus, quatinus id, secundum canonicam sanctionem et iuxta Patrum exempla, corrigere festinetis, ne sacramentum baptismi, et salutifera invocatio nominis Domini videatur annullari.” Cf. Magin, *Der Status der Juden*, 172-73; Rist, *Popes and Jews*, 112; Simonsohn, *Apostolic See and the Jews: History*, 242. These forcibly baptised Jews had, in fact, petitioned for and been granted permission to return to Judaism, as had Jews in Normandy. See, Friedrich Lotter, “The Scope and Effectiveness of Jewry Law in the High Middle Ages,” *Jewish History* 4.1 (1989): 37-39; *idem*, “Imperial versus Ecclesiastical Jewry Law: Contradictions and Controversies Concerning the Conversion of Jews and their Serfs,” in *The Proceedings of the Tenth World Congress of Jewish Studies* (Jerusalem: World Union of Jewish Studies, 1990), B.2: 56-59.

³⁴ Greta Austin, “New Narratives for the Gregorian Reform,” in *New Discourses in Medieval Canon Law Research*, ed. Christof Rolker (Leiden: Brill, 2019), 44-57; Martin Brett, “Finding the Law: The Sources of Canonical Authority Before Gratian,” in *Law Before Gratian: Law in Western Europe, c. 500-1100: Proceedings of the Third Carlsberg Academy Conference in Medieval Legal History*, ed. Per Anderson et al. (Copenhagen: Djøf Publishing, 2007), 51-72; James Brundage, *Medieval Canon Law* (London and New York: Routledge, 1995), 23; Emmanuele Conte and Magnus Ryan, “Codification in the Western Middle Ages,” in *Divergent Paths: The Shapes of Power and Institutions in Medieval Christendom and Islam*, ed. John Hudson and Ana Rodríguez (Leiden: Brill, 2014), 77-84; Stephan Kuttner, “Harmony from Dissonance: An Interpretation of Canon Law,” in *The History of Ideas and Doctrines of Canon Law in the Middle Ages* (London: Variorum Reprints, 1980), 2; Christof Rolker, *Canon Law and the Letters of Ivo of Chartres* (Cambridge: Cambridge University Press, 2010), 50-60.

synodalibus causis.³⁵ Other collections cited *Plurimi Iudaicae religionis* rather than, or in addition to, *De Iudaeis*. Gerhard of Mainz, whose *Collectio* of roughly 937 was evidently compiled in part to answer his archbishop's question as to whether a Christian authority could compel Jews to accept baptism, included only Gregory I's letters, *Plurimi Iudaicae religionis* among them.³⁶ The *Collectio Anselmo*, compiled in the late ninth century, numbers Toledo's *De Iudaeis* and *Plerique Iudaeis* (12.58 and 12.60) among its canons, as well as Gregory's *Plurimi Iudaicae religionis* (12.Gregory.20).³⁷ The *Collectio Herovalliana*, which dates from the second half of the eighth century, ignored the papal and conciliar dictates mentioned above entirely. Instead, it referenced an otherwise unidentified canon it attributed to the Council of Laodicea, which anathematised "[t]hose who are made Christians from Jews; if thereafter they are found to judaize or keep the sabbath."³⁸ This canon, much as Nicaea II had, denounced lapsed converts, but did not insist upon their continued observance of Christianity. Toledo's canons undoubtedly "remained available for citation,"³⁹ but they were not the only canons that were.

Reversion in the Decreta

During the eleventh century, a greater degree of harmony began to emerge within canon law, as some influential compilations, beginning with the *Liber decretorum*, winnowed out some

³⁵ *Collectio Hispana Tol. IV, c. 57, La colección canonica Hispana*, ed. Gonzalo Martínez-Díez, vol. 5 (Madrid: Consejo Superior de Investigaciones Científicas, 1992), 169, 235-38; *Decretales pseudo-Isidorianae et capitula Angilramni*, ed. Paul Hinschius (Aalen: Scientia Verlag, 1963; repr. of Leipzig: B. Tauchnitz, 1863), 371, 732-754; Blumenkranz, "Deux compilations canoniques de Florus de Lyon et l'action antijuive d'Agobard," *Revue historique de droit français et étranger*, ser. 4.33 (1955): 563-77; Regino of Prüm, *Libri duo de synodalibus causis et disciplinis ecclesiasticis* App. 3.1, ed. F.G.A. Wasserschleben (Leipzig: G. Engelmann, 1840), 449. See also, Marmursztejn, *Le baptême forcé des enfants juifs*, 233-36; Horst Fuhrmann, *Einfluss und Verbreitung der pseudoisidorischen Fälschungen*, MGH Schriften, vol. 24 (Stuttgart: Anton Hiersmann, 1972-1973), 1-3; Jasper Detlev and Horst Fuhrmann, *Papal Letters in the Early Middle Ages* (Washington, D.C.: Catholic University of America Press, 2001), 137-195; John Wei, *Gratian the Theologian* (Washington D.C.: Catholic University of America Press, 2016), 47-48.

³⁶ Gerhard of Mainz, *Collectio 3, Der Brief des Priesters Gerhard*, 112-14. See also, Lotter, *Der Brief des Priesters Gerhard*, 46-48, 92-98; Sherwood, "Interpretation, negotiation, and adaptation: Converting the Jews in Gerhard of Mainz's *collectio*", in *Jews in Early Christian Law*, 119-130.

³⁷ *Collectio dedicata Anselmo* 11.35, 12.58-12.60, 12.Gregory.20, Paris, Bibliothèque nationale de France, MS lat. 15392, pp. 403, 420, 431-32. Cf., Marmursztejn, *Le baptême forcé des enfants juifs*, 235-36; Jean-Claude Besse, *Histoire des textes du droit de l'église au Moyen Age de Denys à Gratien: Collectio Anselmo dedicata: étude et texte* (Paris: Librairies techniques, 1966).

³⁸ *Collectio Herovalliana*, Paris, Bibliothèque nationale de France, MS lat. 2123, fol 101v; Paris, Bibliothèque nationale de France, MS lat. 1348B, fol. 153r; Paris, Bibliothèque nationale de France, MS lat. 4281, fol. 48v. "Hii qui christiani facti sunt ex iudaeis si postmodum inuenti fuerint iudaizare uel sabbatizari [sabbatizari in BnF lat. 2123] anathema sint a christo." This is not how the canon appears in the *Collectio Vetus Gallica*, the *Collectio Herovalliana*'s primary source, nor what the canon issued at Laodicea dictated. See, Lotte Kéry, *Canonical Collections of the Early Middle Ages (ca. 400-1140): A Bibliographical Guide to the Manuscripts and Literature* (Washington, DC: Catholic University of America Press, 1999), 54-57; Hubert Mordek, *Kirchenrecht und Reform im Frankenreich: Die Collectio Vetus Gallica, die älteste systematische Kanonensammlung des Fränkischen Gallien* (Berlin, New York: Walter de Gruyter, 1975), 109-22, 577-78; *idem*, "Die historische Wirkung der Collectio Herovalliana," *Zeitschrift für Kirchengeschichte* 81 (1970): 220-43. My thanks to Capucine Nemo-Pekelman for bringing BnF lat. 4281 to my attention.

³⁹ *Faith, Fiction, and Force*, 248.

of its contradictions. Room for disagreement remained, nonetheless. Of the thirty-four eleventh- and twelfth-century collections surveyed by Gilchrist, thirteen include *De Iudaeis*, but eight incorporate Gregory's *Plurimi Iudaicae religionis*.⁴⁰ The *Liber decretorum* used only the Toledan canons, as did the anonymous *Tripartita A*; Ivo of Chartres incorporated Gregory's writings, *De Iudaeis* and Alexander II's *Licet ex devotionis* in his *Decretum*; the *Panormia* used the Toledan canons; and other, less influential collections incorporated Gregory's *Plurimi Iudaicae religionis* alone or along with Toledan canons.

Compiled between 1012 and 1023, the *Liber decretorum* attributed to Burchard of Worms (d. 1025), "marks a turning point - for the history of canon law, but also for the legal definition of Christian attitudes toward Jews."⁴¹ Drawing on Regino of Prüm's *Libri duo de synodalibus*, the *Collectio Anselmo dedicata*, and, possibly, the Pseudo-Isidorian *Decretales*,⁴² it took a more systematic approach to its sources than earlier collections, excising or altering those that did not suit its purposes. Of the ten canons on the Jews in this *Decretum* four, including *De Iudaeis* and *Plerique ex Iudaeis*, were issued by the fourth Council of Toledo.⁴³ As some earlier compilations had and most later collections would, *Liber decretorum* also framed *De Iudaeis* with an explanatory rubric: "On the Jews that no one should inflict force on them for the sake of believing."⁴⁴ The *Liber decretorum*, moreover, was both widely copied and influential. Many of its canons, including those on Jews and reversion, were adopted by later compilers in the specific form in which they appeared in the *Liber decretorum*. Most notably, its peculiar textual variant of *De Iudaeis*, which substitutes Sisanand or Sisemand for Sisebut and *salvandi* for *suadandi*,

⁴⁰ Gilchrist, "Canonistic Treatment of Jews," 74.

⁴¹ Johannes Heil, "Getting Them In, or Keeping Them Out," in *Jews in Early Christian Law*, ed. John Toland, et al. (Turnhout Brepols, 2014), 219. As is the case with many canonical collections of this period, both the authorship and the exact dating are contested. See, Greta Austin, *Shaping Church Law around the Year 1000: The Decretum of Burchard of Worms* (Farnham and Burlington, Vt.: Ashgate, 2009), 18-20, 34, 37, 39-43; Linda Fowler-Magerl, *Clavis Canonum: Selected Canon Law Collections before 1140*, MGH Hilfsmittel, vol. 21 (Hannover: Hahn, 2005), 85-86; Hartmut Hoffman and Rudolf Pokorny, *Das Dekret des Bischofs Burchard von Worms: Textufen – Frühe Verbreitung – Vorlagen* (Munich: Monumenta Germaniae Historica, 1991), 202; Friedrich Lotter, "Zur Ausbildung eines kirchenlichen Judenrechts bei Burchard von Worms und Ivo von Chartes," in *Antisemitismus und Jüdisches Geschichte: Studien zu Ehren von Herbert A. Strauss*, ed. Rainier Erb and Michael Schmidt (Berlin: Wissenschaftlicher Autorenverlag, 1987), 76.

⁴²On the *Liber decretorum*'s sources, see Austin, *Shaping Church Law*, 18, 34, 37, 39-43; Hoffman and Pokorny, *Dekret*, 202.

⁴³ Marmursztejn, *Le baptême forcé des enfants juifs*, 237; John Gilchrist, "The Canonistic Treatment of Jews in the Latin West in the Eleventh and Early Twelfth Centuries," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte / Kanonistische Abteilung* 75 (1989): 74-75. See also, Johannes Heil, "Getting Them In, or Keeping Them Out," in *Jews in Early Christian Law*, 219; Gilchrist, "Perception of Jews in the Canon Law," 12-13; Lotter, "Zur Ausbildung eines kirchlichen Judenrechts bei Burchard von Worms und Ivo von Chartres," 82-83.

⁴⁴ *Liber decretorum* 4.82, Vatican City, Biblioteca Apostolica Vaticana, MS Vat. lat. 1355, fol. 125v. "De iudeis ut nullus eis uim ad credendum debeat inferre." Friedrich Lotter, "Geltungsbereich und Wirksamkeit des Rechts der Kaiserliche Judenprivilegien," 49.

appears in several later compilations, attesting to its continuing importance.⁴⁵

The *Tripartita A*, compiled between 1090 and 1095 near Chartres, also incorporated Toledo's canons but not Gregory's epistle.⁴⁶ It did not, however, use the *Liber decretorum's* variant of *De Iudaeis*, and its version of the canon appears as it did in the *Collectio Hispana* and *Pseudo-Isidorian decretals*.⁴⁷ Another *Decretum*, compiled near Chartres at roughly the same time and attributed to Ivo of Chartres, borrowed from both the *Liber decretorum* and the *Tripartita A*, but it also used patristic and theological texts that had hitherto not been part of canonical collections.⁴⁸ Unlike either source, it included Gregory's *Plurimi Iudaicae religionis* and Alexander II's *Licet ex devotionis* as well as the Toledan canons, borrowed from the *Liber decretorum*.⁴⁹ Its rubric to *De Iudaeis*, like that of the *Liber decretorum*, also reiterated the prohibition against reversion. In addition, Ivo's *Decretum* included a passage from *Vita S. Gregorii* — "Gregory forbade that Jews be baptised violently, so too did he in any way allow that Christians be subjected to them" — and other excerpts from Gregory's register prohibiting coercion.⁵⁰

Ivo's *Decretum*, in its turn, served as a source for the *Panormia*, which was compiled sometime between 1094 and 1115 in or near Chartres.⁵¹ Both more succinct and more coherent

⁴⁵ *Liber decretorum* 4.82, Vat. lat. 1355, fol. 125v. "Ergo non ui sed libera arbitrii facultate, ut conuertantur *saluandi* sunt non potius inpellendi. Qui iam pridem ad christianitatem coactis, sicut factum est temporibus religiosissimi principis *sisanandi*." Italics mine. See also, Marmursztejn, *Le baptême forcé des enfants juifs*, 200-201; Kathleen Cushing, "Law and Reform: The Transmission of Burchard of Worms' *Liber decretorum*," in *New Discourses in Medieval Canon Law*, 31-43.

⁴⁶ Martin Brett, "Urban II and the Collections Attributed to Ivo of Chartres," in *Proceedings of the Eighth International Congress of Medieval Canon Law*, ed. Stanley Chodorow (Vatican City: Biblioteca Apostolica Vaticana, 1992), 27-46; Rolker, *Canon Law*, 100-105; Wei, *Gratian the Theologian*, 21.

⁴⁷ *Tripartita A* 2.37.18, ed. Martin Brett, Bruce Basington, and Przemysław Nowak, https://ivo-of-chartres.github.io/tripartita/trip_a_2.pdf with date / revision stamp 2015-09-23 / 898fb, p. 203.

⁴⁸ Rolker, *Canon Law*, 107-13, 181.

⁴⁹ *Decretum* 1.179-180, 1.276-280, 13.94-98, ed. Matthew Brett, Bruce Basington, and Przemysław Nowak, https://ivo-of-chartres.github.io/decretum/ivodec_1.pdf date / revision stamp is 2015-09-23 / 898fb, pp. 81-, 112-113, https://ivo-of-chartres.github.io/decretum/ivodec_13.pdf, 1, 30-32, 33, 35; date / revision stamp is 2015-09-23 / 898fb, pp. 29-30. According to Rolker, Ivo's *Decretum* preferred papal decretals to other sources and, unlike Burchard, was not inclined to cull contradictory canons, which may account for his inclusion of both canons. Rolker, *Canon Law*, 196-97, 249.

⁵⁰ *Decretum* 1.183. ed. Matthew Brett, Bruce Basington, and Przemysław Nowak, https://ivo-of-chartres.github.io/decretum/ivodec_1.pdf with date / revision stamp is 2015-09-23 / 898fb, p. 83. "Quemadmodum Iudeos violenter baptizari Gregorius denegabat, ita Christianos eis quoquo modo subici nullatenus permittebat." *Decretum* 13.101, 13.104-105, 13.110, 13.114, https://ivo-of-chartres.github.io/decretum/ivodec_13.pdf, pp. 1, 30-32, 33, 35.

⁵¹ See Brett, "Urban II and the Collections Attributed to Ivo of Chartres," in *Proceedings of the Eighth International Congress of Medieval Canon Law*, ed. Stanley Chodorow (Vatican City: Biblioteca Apostolica Vaticana, 1992), 27-46; Fowler-Magerl, *Calvis Canonum*, 198; Gilchrist, "Canonistic Treatment of Jews," 70-106; Kéry, *Canonical Collections*, 253-54; Rolker, *Canon Law*, 123-24, 272-85. The *Panormia* has been attributed to Ivo, or at least to Chartres, though this attribution has not gone unchallenged.

than the *Decretum*,⁵² the *Panormia* eschewed Gregory's stance on reversion for Toledo IV's and provided a new interpretative framework for *De Iudaeis*. It used the canon from the *Liber decretorum* but affixed a rubric that created a corollary between the injunction against coercion and that against reversion. The rubric, whose precise wording varies between manuscripts, explains that "force should not be inflicted on the Jews to baptise them, but after they are baptised, they are to be compelled to keep the faith."⁵³ Thus the *Panormia*, more than the original conciliar canon, arguably forged what Marmursztejn terms the paradox of illicit but valid forced baptism.⁵⁴

Although the *De Iudaeis*' authority on reversion seems to have been ascendant, it was not yet absolute. Nor was *De Iudaeis* so established or so authoritative that its text was fixed. The *Polycarpus* of 1104 to 1113 included *Plurimi Iudaicae religionis* as did the *Collectio canonum trium librorum* of 1111-1123.⁵⁵ In the *Collectio canonum trium librorum*, *De Iudaeis* ends with the injunction that just as humanity fell of its own free will so too must it be saved by conversion and faith.⁵⁶ In jettisoning the proscription against reversion, this compiler transformed *De Iudaeis* into an uncomplicated injunction against forcible conversion. The *Collectio* also included *Plurimi Iudaicae religionis* under the heading "So that the Jews are not to be compelled to baptism by force."⁵⁷

However inevitable it may appear in retrospect, the dual prohibition against coercion and reversion articulated at Toledo in 633 did not become the juridic norm until the mid-twelfth century, when the *Decretum Gratiani* established its preeminence. Compiled between the 1120s

⁵² Rolker, *Canon Law*, 251.

⁵³ *Panormia* 1.72. Vat. lat. 1358, fol. 16v; Vat. lat. 1359, fol. 16r; Vat. lat. 1360, fol. 11r. "Quod non sit iudeis inferenda vis baptizandi sed postquam baptizantur ad fidem tenendam sunt cogendi." See also, https://ivo-of-chartres.github.io/panormia/pan_1.pdf, with date / revision stamp 2015-09-23 / 898fb, notes 1-5, p. 49.; John Gilchrist, "The Canonistic Treatment of Jews in the Latin West," 70-106. On the importance of the *Panormia*'s rubrics generally, see Greta Austin, "Rubrics in the *Panormia*," in *Proceedings of the Fourteenth International Congress of Medieval Canon Law*, ed. Joseph Goering, Stephan Dusil, and Andreas Thier (Vatican City: Biblioteca Apostolica Vaticana, 2016), 61-68.

⁵⁴ Marmursztejn, *La baptême forcé des enfants juifs*, 40. See also, Colish, *Faith, Fiction and Force*, 280-281.

⁵⁵ Uwe Horst, *Die Kanonensammlung Polycarpus des Gregor von S. Grisogono: Quellen und Tendenzen* (Munich: Monumenta Germaniae Historica, 1980), 9-10, 17-37, 68, 209; *Collectio canonum trium librorum* 3.6.4, ed. Joseph Motta (Vatican City: Biblioteca Apostolica Vaticana, 2008), 2:xxxv-xliv, 44. See also, Gilchrist, "Canonistic Treatment of Jews," 91, 96-97; Fowler-Magerl, *Clavis Canonum*, 23; Gaudemet, "La doctrine des sources du droit dans le Décret de Gratien," 8; Kéry, *Canonical Collections*, 266-71; Wei, *Gratian the Theologian*, 22.

⁵⁶ *Collectio canonum trium librorum* 3.6.9, 2:45. "Ex Toletano. De Iudeis autem hec precepit sancta synodus nemini deinceps ad credendum uim inferre. "Cum enim uult Deus miseretur et quem uult indurat." Non enim tales inuiti saluandi sunt sed uolentes, ut integra sit forma iustitiae. Sicut homo propria arbitrii uoluntate, serpenti obediens, perit, sic uocante se gratia Dei proprie mentis conuersione, homo quisque credendo saluatur."

⁵⁷ *Collectio canonum trium librorum* 3.6.4, 2:44. "Ut Iudei non cogantur vi ad baptismum."

and 1150s, this *Decretum* became an authoritative source of and textbook for canon law.⁵⁸ Like the *Panormia*, its second recension incorporated several of the Toledan canons, including *De Iudaeis* (D.45, c. 5) and *Plerique ex Iudaeis* (*De consecratione* D. 4, c. 94), as well as an extract from Gregory I's *Qui sincera* (D.45, c. 3). The *dictum* that introduced D.45, c.5 (henceforth *De Iudeis*), moreover, echoes the *Panormia*'s rubric. It draws a corollary between the canon's prohibitions against coercion and reversion: "Jews are not to be compelled to the faith; still if the unwilling receive it, they are to be compelled to keep it."⁵⁹ The compiler of this *Decretum*, however, did not borrow the *Panormia*'s text which borrowed the *Liber decretorum*'s text. Instead, it uses the wording of the *Collectio Hispana*, presumably by way of the *Tripartita A*.⁶⁰ This selectivity — adapting the rubric from one source for the *dictum* while adopting the text from another — augurs greater editorial sophistication than has been attributed to either recension of the *Decretum*.⁶¹ Moreover, it would suggest that neither the authoritative text nor the authority of the canon itself were wholly established before the mid-twelfth century.

Reversion among the decretists

While the *Decretum* made *De Iudeis* the prevailing norm, it did not resolve the dissonance within or between this and other canons on coercion and reversion. Indeed, the *Decretum* contains so many contradictory canons on these subjects that Gratian can be seen as

⁵⁸ I shall refer to this as the *Decretum* or the *Decretum Gratiani* for convenience's sake, though the first, second, and subsequent recensions may well have had more than one author. On its adoption, influence, and its contested authorship, see *inter alia* Melodie Eichbauer, "From the First to the Second Recension: The Progressive Evolution of the *Decretum*," *Bulletin of Medieval Canon Law*, n.s., 29 (2012): 119–167; *idem*, "Gratian's *Decretum* and the Changing Historiographical Landscape," *History Compass* 11/12 (2013): 1111–25; Peter Landau, "Gratian and the *Decretum Gratiani*," in *The History Of Medieval Canon Law in the Classical Period, 1140-1234*, ed. Wilfried Hartmann and Kenneth Pennington, 22–54; Wei, *Gratian the Theologian*, 24–26; *idem*, "The Later Development of Gratian's *Decretum*," in *Proceedings of the Fourteenth International Congress of Medieval Canon Law*, 149–61; Anders Winroth, *The Making of Gratian's Decretum*, 5–18, 175–92; *idem*, "Recent Research on the Making of Gratian's *Decretum*," *Bulletin of Medieval Canon Law* 26 (2004–2006):1–29.

⁵⁹ *Decretum Gratiani* D. 45, d.p.c. 4 - c.5, *Corpus iuris canonici*, ed. Emil Friedberg and Aemilius Ludwig Richter (Graz: Akademische Druck- u. Verlagsanstalt, 1959), 1:162; 1; Sherwood, Notice n°30482, RELMIN project, «The legal status of religious minorities in the Euro-Mediterranean world (5th-15thcenturies)» Telma Web edition, IRHT, Institut de Recherche et d'Histoire des Textes - Orléans <http://www.cn-telma.fr/remlin/extrait30482/>. "Iudei non sunt cogendi ad fidem, quam tamen si inuiti susceperint, cogendi sunt retinere. Unde in Toletano Concilio IV. statutum est: sicut non sunt Iudei ad fidem cogendi, ita nec conuersi ab ea recedere permittitur." See also, Magin, *Der Status der Juden*, 166. Friedberg and Richter's edition is known to be flawed, as are many of the early editions of the decretists' commentaries; where possible, I have compared printed editions against manuscript copies and have noted any significant variants.

⁶⁰ Cf. Colish, *Faith, Fiction, and Force*, 282; Marmursztejn, *Le baptême forcé des enfants juifs*, 200–201. Both the *Panormia*, and the *Tripartita A*, as well as the *Collectio canonum trium librorum* and the *Polycarpus*, were among the *Decretum Gratiani*'s sources. See, Rolker, *Canon Law*, 112–113; Wei, *Gratian the Theologian*, 20–22.

⁶¹ It has been noted that Gratian selected canons in keeping with his purposes, but not, in so far as I am aware, that the compiler of the first or second recension collated his sources. See, e.g., Winroth, "Marital Consent in Gratian's *Decretum*," in *Readers, Texts, and Compilers in the Earlier Middle Ages: Studies in Medieval Canon Law in Honour of Linda Fowler-Magerl*, ed. Martin Brett and Kathleen Cushing (Farnham, UK and Burlington, Vt.: Ashgate, 2009), 111–21.

both an opponent and a supporter of forced baptism.⁶² Contradictions and room for disagreement existed within the canon itself — medieval canonists were far from blind to the tensions inherent in forbidding forced baptisms while making them binding — and between this canon and others, like Gregory I's *Qui sincera* and the canons in *Causa 23* question 6, which both forbid and permit the use of coercion in certain circumstances.⁶³ The *Decretum*'s conflicting canons and the competing demands of *De Iudeis* and its *dictum* became a springboard for discussions about the limits of coercion and consent in the writings of the decretists, those canonists who sought to bring harmony to the *Decretum* through glosses and commentaries. The decretists' arguments and disagreements, particularly among those who studied or taught in the nascent law schools of Bologna, came to determine how the canons in the *Decretum* were understood, defined, and, eventually, enforced within canon law.

The decretists who commented on *De Iudeis*, and they did not all do so,⁶⁴ did not always predicate the prohibitions against coercion and reversion on each other as the *dictum* did. Indeed, the earliest glosses on *De Iudeis* often privileged one half of the canon over the other, and some of these emphasised the proscription against coercion. One early gloss to *Decretum* explains *De Iudeis* with reference to a letter of Augustine's counselling against conversion by compulsion that begins "no one to the faith" (C.23 q.5 c.33), whereas another references a canon about marriage within a prohibited degree of affinity, as well as three contradictory canons.⁶⁵ A third gloss simply rephrased the *dictum*, declaring that just as Jews were not to be forced into the faith, neither were "converts permitted to withdraw from it."⁶⁶ Another gloss, compiled by a canonist teaching in Bologna during the 1150s, specified that force was not to be used to bring Jews "ad credendum," but was silent on the subject of reversion.⁶⁷ The *Summa Rolandi*, among the earliest of the more systematic commentaries, touched briefly on coercion but ignored reversion. Rolandus read *De Iudeis* as an injunction against harassment: "on the Jews, [they are] not to be

⁶² Colish, *Faith, Fiction, and Force*, 282, n.145.

⁶³ Czerwinski, "Teachings of the Twelfth and Thirteenth Century Canonists," 146. Nor is this the only subject on which the *Decretum* retains contradictions. In Winroth's phrase, the *Decretum* "fulfils but poorly the promise of the work's original title." *Making of Gratian's Decretum*, 3.

⁶⁴ The *Summa Papiensis*, for example, does not.

⁶⁵ *Decretum* D. 45 c.5, Vatican City, Biblioteca Apostolica Vaticana, MS Pal. lat. 621, 59r. "Infra xxiii. q. v. ad fidem nullus." *Decretum* D. 45 c. 5, Paris, Bibliothèque nationale de France, MS lat. 3884/I, fol. 55r. "Infra xxxv. q. i. et iii. De propinquis [C.35 q.2 & 3 c. 3]. Infra xxiii. q. v. Ad fidem contra [C. 23 q.5 c.33]. Infra xxiii. q. iiiii. Quis nos [C. 23 q.4 c. 43] q. vi^a Iam uero [C.23 q. 6 c.] contra. Infra xxxiii. q. iiiii. Notificasti contra [C.33 q.4 c.2]." See also, Rome, Biblioteca Apostolica Vaticana, MS Pal. lat. 624, fol. 33v; Vatican City, Biblioteca Apostolica Vaticana, MS Vatican Ross. 595, fol. 49v. On the earliest glosses, see Rudolf Weigand, *Glossatoren des Dekrets Gratians* (Goldbach: Keip, 1997), 349-50; Philipp Lenz, "Die Glossierung und die Glossen in den frühesten Handschriften des *Decretum Gratiani*," *Bulletin of Medieval Canon Law* n.s. 35 (2018): 41-184.

⁶⁶ *Decretum* D. 45 c.5, Rome, Biblioteca Apostolica Vaticana, Chig. E.VII.206, fol. 43v. "Sicut non sunt iudei ad fidem cogendi: ita nec conuersis ab ea recedere permittuntur." The gloss to D.45 c.3 reads "Iudeos ad fidem non esse cogendos."

⁶⁷ *Decretum* D. 45 c.5. Vatican City, Biblioteca Apostolica Vaticana, MS Vat. lat. 3529, f. 30r. "Vt uim non esse inferendam Iudeos ad credendum." On this manuscript, see Kuttner, *Glossatoren*, 115.

molested” and “they should be brought by words not by scourges.”⁶⁸

A more vigorous debate about coerced baptism and its effects emerged after 1160. Writing around 1164, Rufinus (d. c.1192), who later became bishop of Assisi and then archbishop of Sorrento,⁶⁹ reiterated *De Iudeis* and its dual and duelling prohibitions. He also created a means whereby unwilling baptisands could be supposed to have consented, an escape mechanism for the unwilling, and a distinction between types of coercion. As many subsequent decretists would, Rufinus began with the *dictum*. According to Rufinus, “as a consequence of time, it can be presumed that [the unwilling] consented to the faith.”⁷⁰ The baptised person’s participation in Christian rites bound them to the Church, a kind of *post facto* consent. Those who never consented, however, “were never to be compelled to keep what at no time they approved and received unwillingly.”⁷¹ Turning to the canon itself, Rufinus considered coercion and its effects on baptism more specifically. To harmonise *De Iudeis*’ prohibition of coercion with Causa 23, question 6’s fourth canon, *Iam vero*, which permitted coercing the *rustici*, Rufinus distinguished between permissible and impermissible forms of coercion. Bodily violence and threats to one’s property were forbidden, he argued, but fiscal demands were not.⁷² Rufinus interpreted Causa 23, question 6 to accord with the *dictum* to *De Iudeis*: one should not be compelled to the good, if they never chose it, “but they are to be compelled to return to the good that they relinquished.”⁷³ Thus, while Rufinus maintained that baptism required consent to be binding so that those who never consented could not be compelled to keep the faith, he also argued that consent could follow, rather than precede, the sacrament; and once given, it could not be retracted.

Rufinus’ *post facto* consent and his distinction between permissible and impermissible forms of coercion were borrowed by several later decretists. Stephan of Tournai (1128-1203), a

⁶⁸ *Summa magistri Rolandi* D. 45, ed. Friedrich Thaner (Innsbruck: Verlag der Wagner’schen Universitäts-Buchhandlung, 1874), 8. “Quod verbis non verberibus timeri praelati debeant, complectens in hoc octuagesimam sextam distinctioneni, et de Iudaeis non molestandis ac triplici elemosynarum genere.” See also, Weigand, *Glossatoren des Dekrets*, 404-5.

⁶⁹ Brundage, *Medieval Canon Law*, 50; Wolfgang Müller, *Huguccio: The Life, Works, and Thought of a Twelfth-Century Jurist* (Washington, D.C.: The Catholic University of America Press, 1994), 3; Jean Gaudemet, “Equité et droit chez Gratien et les premiers décrétistes,” in *La storia del dritto nel quadro delle scienze storiche: atti del I Congresso internazionale della Società italiana di storia del diritto* (Florence: Leo S. Olschki, 1966), 285; Weigand, *Glossatoren des Dekrets*, 406-7.

⁷⁰ Rufinus of Bologna, *Summa Decretorum* D.45 c.5, ed. Heinrich Singer (Paderborn: Scientia Aalen, Ferdinand Schönigh, 1963), 106. “*Iudei non sunt cogendi ad fidem, quam tamen si inviti susceperunt — et per consequentiam temporis eos consensisse fidei presumi poteuerit subaudi — cogendi sunt retinere; unde in proximo capitulo, quia, inquit, iam constat eos sacramentis divinis associatos.*” Cf. Colish, *Faith, Fiction, and Force*, 283; Condorelli, *I fondamenti giuridici della tolleranza religiosa*, 39-40, 77.

⁷¹ Rufinus, *Summa Decretorum* D.45 c.5, p. 106. “Si quominus, numquam essent cogendi retinere quod nullo tempore probaverunt et inviti susceperunt.”

⁷² *ibid.*, 106. Cf. Colish, *Faith, Fiction, and Force*, 283; Czerwinski, “Teachings of the Twelfth and Thirteenth Century Canonists,” 149-150; Marmursztejn, *Le baptême forcé des enfants juifs*, 154-55.

⁷³ Rufinus, *Summa Decretorum* C23. q. 6, p. 411. “Breviter respondententes dicimus quia mali non sunt cogendi ad bonum, quod nunquam elegerunt, sed compellendi sunt redire ad bonum, quod reliquerunt.”

Parisian teacher of canon law who studied in Bologna and wrote his *Summa* about two years after Rufinus wrote his,⁷⁴ adopted both these arguments. Like Rufinus, Stephan distinguished between physical violence and financial exactions to reconcile the demands of *De Iudeis* and *Iam vero*. Accordingly, the phrase “vim inferre” indicated that, “physical violence is forbidden here, there the requisition of temporal goods done out of zeal for conversion is allowed.”⁷⁵ Stephan, however, allowed that the difference might also be that one canon is about Jews, while the other concerns wicked, but Christian, *rustici*.⁷⁶ He also maintained that once they were part of the Church, converts were not free to leave it. Like Rufinus, he argued that participation in Christian rites bound the baptised to the Church and they “were to be compelled to keep the faith.”⁷⁷

Simon de Bisignano, another Bolognese decretist, also adopted and adapted posterior consent in his *Summa* of the late 1170s.⁷⁸ Unlike the sacraments of marriage and ordination, Simon argued that baptism “is not given to the unwilling,” but those who had been compelled “and ultimately made (*facti*) willing, received baptism.”⁷⁹ Simon argued not just that consent could follow baptism, but also implied that consent itself might be coerced. Simon did not explain, as Rufinus had, how that willingness might manifest. Instead, he employed the multivalent *facti* which left open the possibility that the baptised Jews in question had become, were made, or had feigned willingness.

Peter of Blois (c.1130 – c.1211), though better known as a theologian and a polemicist, also studied law at Bologna. His *Speculum iuris canonica* of c.1180 echoed his Bolognese counterparts’ discussions about consent, coercion, and conversion even as it diverged noticeably

⁷⁴ Brundage, *Medieval Canon Law*, 51; Müller, *Huguccio*, 3; Weigand, *Glossatoren der Dekrets*, 408; Gaudemet, “Equité et droit chez Gratien,” 287.

⁷⁵ Stephan of Tournai, *Summa D. 45 c.5*, *Die Summa über das Decretum Gratiani*, ed. Johann Friedrich von Schulte (Aalen: Scienta Verlag, 1965), 65. “c. 5. *vim inferre*. Signatur infra contra C.23. q. 6. *Iam vero*. Sed hic violentia corporalis prohibetur, ibi exactio temporalium zelo conversionis facta permittitur.”

⁷⁶ *ibid.*, D. 45 c.5, p. 65.

⁷⁷ *ibid.*, D.45 c.5, p. 65. “Alia litera: *si semel imbuti fide nostra*; iunge post aliqua quae interponuntur: fidem tenere coguntur.” Cf. Colish, *Faith, Fiction, and Force*, 173; Condorelli, *I fondamenti giuridici della tolleranza religiosa*, 40-41; Czerwinski, “Teachings of the Twelfth and Thirteenth Century Canonists,” 151.

⁷⁸ Gaudemet, “Equité et droit chez Gratien,” 289; Kenneth Pennington and Wolfgang Müller, “The Decretists: The Italian School,” in *History of Medieval Canon Law in the Classical Period*, 140; Weigand, *Glossatoren der Dekrets*, 413.

⁷⁹ Simon de Bisignano, *Summa D.45 c.5*, Paris, Bibliothèque nationale de France, MS lat. 3934 A, fol 59r; Rouen, Bibliothèque municipale, MS 710, fol. 68v; Rome, Biblioteca Casatense, MS 1105, fol. 207v; Notice n°136991, RELMIN project, “The legal status of religious minorities in the Euro-Mediterranean world (5th-15thcenturies),” <http://www.cn-telma.fr/remlin/extrait136991/>.. “Item nota quod sacramentum ordinis inuitis datum in ueritate datur et accipitur. Vt infra Di. LXXIII, *Ubi ista* [D. 74 c. 7] secus est in baptismo qui inuitis non datur secundum quosdam de illis ergo hic dicitur quibus primo uis et coactio facta est, et sic tandem facti uolentes susceperunt baptismum.” Peter Aimone Braida’s edition, *Summa in Decretum Simonis Bisinianensis* (Vatican City: Biblioteca Apostolica Vaticana, 2014), pp. 40-41, has “nolentes” for “uolentes.” The letters “u” and “n” are notoriously similar in *littera textualis*. Cf. Condorelli, *I fondamenti giuridici della tolleranza religiosa*, 43-45; Czerwinski, “Teachings of the Twelfth and Thirteenth Century Canonists,” 151-52, n. 21.

in format.⁸⁰ In a series of commentaries on coercion, Peter asserted “If anyone is to be compelled to the faith, it is to be distinguished whether the faith is to be received or has already been received. If it is to be received the coercion is unjust. If it has already been received, the coercion is licit, lest the name of the Lord be blasphemed.”⁸¹ Peter then enumerated the canons that support this reading, including *Iam vero* and *De Iudeis*, and the canons that do not, a list that also included *De Iudeis*.⁸²

These discussions about the boundaries of consent and coercion that tried to harmonise the *dictum* on *De Iudeis* were, however, largely limited to the decretists who taught or had studied in Bologna. Canonists elsewhere, when they considered *De Iudeis* (and they did not always do so), followed different arguments to different conclusions. A few northern European canonists focused more on coercion than the limits of consent and the aftermath of violence. The author of the *Summa Parisiensis*, for example, treated *De Iudeis* as a confirmation of *Qui sincera* and its injunction against coercion — “it is true that no one is saved unwillingly.”⁸³ The *Summa Coloniensis*, recently attributed to Berthold of St. Gereon (d. 1212),⁸⁴ likewise, did not attempt to reconcile *De Iudeis* with itself but with *Qui sincera* and *Iam vero*. According to the *Summa Coloniensis*, *De Iudeis* and *Qui sincera* are in accord, as the latter insists upon blandishments, rather than harshness. It continued that *De Iudeis* is about “manual” coercion, but “it is lawful to afflict those who were always the Church’s enemies with the burden of usury and taxes, so that, enervated by these means, they cease to revolt against us and join the hands of faith.”⁸⁵ The *Distinctiones “Si mulier eadem hora” seu Monacenses*, an anonymous commentary from the

⁸⁰ Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians, and Courts* (Chicago: University of Chicago Press, 2008), 108; Czerwinski, "Teachings of the Twelfth and Thirteenth Century Canonists," 152.

⁸¹ Peter of Blois, *Speculum iuris canonici* 38, *Opusculum de distinctionibus in canonum interpretatione adhibendis*, ed. Theophilus Augustus Reimerus (Berlin: G. Reimeri, 1837), 69. "Si quis igitur ad fidem cogendus sit, distinguitur utrum ad fidem suscipiendam an ad iam susceptam, si ad suscipiendum iniusta est coactio. Si ad iam susceptam, coactio licita est: ne nomen domini blasphemetur." Cf. Condorelli, *I fondamenti giuridici della tolleranza religiosa*, 46-50; Czerwinski, "Teachings of the Twelfth and Thirteenth Century Canonists," 152.

⁸² Peter of Blois, *Speculum iuris canonici* 38, p. 70.

⁸³ *Summa Parisiensis* D.45 c.5, *The Summa Parisiensis on the Decretum Gratiani*, ed. Terence McLaughlin (Toronto: Pontifical Institute of Mediaeval Studies, 1952), 40. "De Judaeis inuiti, quantum ad perceptionem sacramentorum. Generaliter enim verum est quod nullus invitus salvatur." Cf. Condorelli, *I fondamenti giuridici della tolleranza religiosa*, 42, 51, 74-75; Colish, *Faith, Fiction, and Force*, 283; Czerwinski, "Teachings of the Twelfth and Thirteenth Century Canonists," 150-51.

⁸⁴ Peter Landau, *Die Kölner Kanonistik des 12. Jahrhunderts: Ein Höhepunkt der europäischen Rechtswissenschaft: Vortrag vor dem Rheinischen Verein für Rechtsgeschichte e.V. in Köln am 27. Mai 2008*, (Badenweiler: Bachmann, 2008), 17; *idem*, "Master Peter of Louveciennes and the Origins of the Parisian School of Canon Law around 1170," in *Proceedings of the Fourteenth International Congress of Medieval Canon Law*, 383-85; Gerardus Fransen and Stephan Kuttner, foreword to *Summa "Elegantius in iure divino" seu Coloniensis* (New York: Fordham University Press, 1969), 1:xi; Rudolf Weigand, "The Transmontane Decretists," in *The History of Medieval Canon Law in the Classical Period*, 183-84.

⁸⁵ *Summa Coloniensis* 2.66, 1:74. "Verum hoc de manuali coactione. Exactione siquidem usurarum et onere pensionum eos qui semper hostes ecclesie fuerunt affligere licet, ut his modis macerati a rebellione nostra desinant et manus fidei iungant, ut xxiii, q. vi. Iam uero."

French school that was composed around the 1170s,⁸⁶ reached a similar conclusion. Echoing Rufinus, it concluded that coercion through physical violence was barred by *De Iudeis*, while *Iam vero* permitted financial pressure.⁸⁷ It does not, however, address reversion.

Conversely two Anglo-Norman canonists cited Bolognese canonists, but did not grapple with the *De Iudeis*'s contradictions in the same way. They also followed the canon to the conclusion that reversion was always prohibited. Honorius, an Anglo-Norman canonist who studied in Paris and taught at Oxford, argued that participation in Christianity would eventually rectify forcible converts' unorthodox baptisms in his *Summa de iure canonico*, composed between 1185 and 1191.⁸⁸ Following Rufinus, by way of Johannes Faventius (d. 1191?) who had interpolated Rufinus' commentary on *De Iudeis* into his syncretic compilation of c.1170,⁸⁹ Honorius declared that Jews who have been imbued by the sacrament and participated in Christian sacraments might be supposed to have assented: "Whence posterior assent reconciled what was done defectively after the fashion of one feigning baptising."⁹⁰ Yet if the sacrament of ordination could be conferred unwillingly, he continued so too might that of baptism. According to G.,⁹¹ Honorius explained, "in baptism, the assent of neither the baptising nor the baptised is necessary."⁹² The *Summa Lipsiensis*, which also belonged to the Anglo-Norman school and referenced Johannes Faventius and Gandulphus,⁹³ noted the contradictions between *De Iudeis*, which emphasised converting freely, and *Iam vero*, which allowed coercion. He concluded, nevertheless, that *De Iudeis*' use of *oportet* indicates that "what is done outside the law is not to

⁸⁶ Rosalba Sorice, "Prolegomena," *Distinctiones "Si mulier eadem hora" seu Monacenses* (Vatican City: Biblioteca Apostolica Vaticana, 2002), xii-xiii; A.J. de Groot, *Distinctiones "Si mulier eadem hora" seu Monacenses* (Nijmegen: GNI, 1996), ix-xxvi.

⁸⁷ *Distinctiones "Si mulier eadem hora" seu Monacenses* D.45 c.5, ed. Sorice, 39.

⁸⁸ *Magistri Honorii summa "De iure canonica tractaturus,"* ed. Rudolf Weigand, Peter Landau, and Waltraud Kozur (Vatican City: Biblioteca Apostolica Vaticana, 2004), 1:vii-xi; Brundage, *Medieval Canon Law*, 213; Weigand, "The Transmontane Decretists," 197-99.

⁸⁹ Stephan Kuttner, "Quelque observations sur l'autorité des collections classiques dans le droit classique de l'Église," *Actes du Congrès de droit canonique* (Paris: Letouzey et Ané, 1950), 119; Weigand, *Glossatoren des Dekrets*, 411; Müller, *Huguccio*, 3.

⁹⁰ *Summa "De iure canonica tractaturus"* D. 45 c.5, 1:139. "Vnde consensus posterior uitiose factum reconiliauit ad instar simulatorie baptizand, ut de con. di. iiii."

⁹¹ G., also known as Magister G., is likely Gandulphus whom decretists of the period frequently cited, but whose glosses on the *Decretum* survive only indirectly. See Pennington and Müller, "Decretists," 139; Rudolf Weigand, "Gandulphus glossen zum Dekret Gratians," *Bulletin of Medieval Canon Law* 7 (1977): 15-48.

⁹² *Summa "De iure canonica tractaturus,"* D45 c.5, 1:139. "Vnde dicit G. utrobique conferri; in baptisate enim nec consensus baptizantis nec baptizati necessarius est, dum forma in aliis seruetur, ut alias plenius."

⁹³ *Summa "Omnis qui iuste iudicat" sive Lipsiensis* D.45 d.p.c.4, 1:186. See, Peter Landau, introduction to *Summa "Omnis qui iuste iudicat" sive Lipsiensis*, ed. Rudolf Weigand, Peter Landau, and Waltraud Kozur (Vatican City: Biblioteca Apostolica Vatican, 2007-2018), 1:IX-XXVIII; *idem*, "Rodoicus Modicipassus—Verfasser der Summa Lipsiensis?" *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Kanonistische Abteilung* 92.1 (2006): 340-54.

be withdrawn.”⁹⁴

In their disparate interpretations, focus, and structure, these commentators contrast tellingly with their Bolognese counterparts whose *summae* tend to engage more directly with the contradictions inherent in forbidding both coercion and reversion, and the questions of whether, when, and why a forcibly baptised Jew should be compelled to remain a Christian. Nowhere is this more evident than in Huguccio’s *Summa Decretorum*, the lengthiest and most influential commentary on *De Iudeis*. Huguccio, later bishop of Ferrara (d. 1210), composed his *Summa* during the late 1180s.⁹⁵ He also noted, quite explicitly, ongoing disagreements about how the canons ought to be understood. Like Rufinus, Huguccio argued that while faith was a requisite of baptism, it was not a prerequisite. Where his predecessors distinguished between physical and financial coercion, however, Huguccio distinguished between conditional and absolute coercion, a distinction that would significantly inform and shape later definitions of consent, at least where baptism was concerned.

As many of his predecessors had, Huguccio began his commentary on *De Iudeis* by reiterating the prohibitions against coercion and reversion: “*On the Jews* it is said in this chapter that the Jews should not be compelled to the faith, but those who have already received the faith, because they afterwards consented to retain it, they are to be compelled to believe, that is to receive the faith, and convert to God.”⁹⁶ Huguccio then set forth the various and competing canons that support and contradict *De Iudeis*. Causa 23 q.5 c.33 allows harshness because the unwilling ought to be saved, whereas Causa 23 q.6 c.3 holds that the unwilling cannot be saved. Justice and *De Iudeis* demand that only the willing be converted and baptised, but Causa 23 q.4 c.43 and *Iam vero* disagree. He continued that these chapters “concern those who have already received the faith,” though *Iam vero* could be understood to concern one who has yet to do so, and “he is not to be compelled to the faith through bodily violence, or the confiscation of his goods, or through terror, as it is said, but he can be weighed down with the burden of exactions, so that he may be drawn to the faith more easily, as it said therein.”⁹⁷

Within the context of *De Iudeis*, at least, “associated” and “anointed” signified, Huguccio

⁹⁴ *Summa Lipsiensis* D.45, 1:186., “oportet: Hic habetur quod preter legem factum est non reuocari, ut d. xxvii. Si uir; infra xxxii. q. vii. Hii qui, infra ii. q. vi. Biduum, infra vii. q. i. Quia, infra d. lxiii. Salonitane.”

⁹⁵ Müller, *Huguccio*, 5, 21-22, 77-82; Gaudemet, “Équité et droit chez Gratien,” 290-91; Müller and Pennington, “The Decretists: The Italian School,” in *History of Medieval Canon Law in the Classical Period*, 148-51; Heinrich Heitmeyer, *Sacramentespendung bei Härehkern und Simonisten nach Huguccio* (Rome: Päpstlichen Gregorianischen Universität, 1964).

⁹⁶ *Summa Decretorum* D. 45 c.5 v. *De iudeis*, Admont, Stiftsbibliothek MS 7, fol. 61v; Munich, Bayerische Staatsbibliothek, clm 10247, fol. 46v; Vatican City, Biblioteca Apostolica Vaticana, Archivio S. Pietro MS C.114, fol. 54v; Vatican City, Biblioteca Apostolica Vaticana, MS Vat. lat. 2280, 44r; Klosterneuberg, Stiftsbibliothek, Codex Clasteronesburgensis 89, fol. 57v; Notice n°254292, projet RELMIN, <http://www.cn-telma.fr/relmin/extrait254292/>. “*De iudeis* hic dicitur in cap. quid iudei non sunt cogendi ad fidem illi uero qui olim coacti fidem suscipierunt quia postea consenserunt fidem retinere cogendi sunt ad credendum, id est ad fidem suscipiendam ad conuersionem ad deum.”

⁹⁷ *Summa Decretorum* D. 45 c.5 v. *ergo non ui*, Admont MS 7, fol. 61v; clm 10247, fol. 46v; Archivio S. Pietro C. 114, fol. 54v; Vat. lat. 2280, 44r; Codex Clasteronesburgensis 89, fol. 58r. “Qui non est cogendus ad fidem per corporalem uiolentiam, uel per ablationem suarum rerum uel per terrorem, vt hic dicitur, sed potest grauari maiori onere pensionis ut sic facilius trahatur [*trahantur* in clm 10247] ad fidem.”

argued, that the baptised had afterward consented, and were thus to be compelled to keep the faith. If they did not consent afterward, however, "they are not to be compelled to live according to the Christians' rite ... because they never desired, never assented to, never chose this."⁹⁸ Huguccio conceded that other decretists disagreed. Magister G.⁹⁹ and others, he explained, argued that anyone who has been baptised, willing or no, consenting afterwards or otherwise, should be compelled to live as Christians. They, Huguccio declared, "spoke badly," nevertheless:

concerning coercion, however, I make a distinction: either it is absolute, or it is conditional. If someone were baptised with coercion reckoned to be absolute — one person held him bound while another poured water over him — unless he consented thereafter, he should not be compelled to keep the Christian faith. However, he is still baptised and receives the sacrament, because whether willing or unwilling, awake or asleep, whoever is baptised in the manner of the Church receives the sacrament. But if one is baptised by conditional coercion — I will strike you or despoil you, destroy or injure you, unless you are baptised — he should be compelled to keep the faith because through such coercion, he is made willing from unwilling, and the willing are baptised. A coerced will is still a will and causes willingness.¹⁰⁰

While coercion is forbidden, once exercised conditionally or consented to afterwards, it is

⁹⁸ *Summa Decretorum* D. 45 c.5 v. *associatos unctos corporis domini*, Admont MS 7, fol. 61v; clm 10247, fol. 46v; Archivio S. Pietro C.114, fol. 54v; Vat. lat. 2280, 44r; Codex Clausteronesburgensis 89, fol. 58r. "[S]isembuti primum nomen est, *associatos unctos corporis domini*, omnia ista sunt signa eos [postea in clm 10247] consensisse, et ideo cogi debent ad fidem tenendam, sed si coacti fidem suscepissent, et numquam postea consensissent [*consensissent* in clm 10247] non essent cogendi uiuere secundum ritum christianorum ad id enim quod numquam uoluit numquam approbavit, numquam elegit, non est cogendus quis ar. di. xxxi. ante et xx. q. iii. presens et xxiii. q. v. ad fidem."

⁹⁹ On Magister G. or G. see above.

¹⁰⁰ *Summa Decretorum* D. 45.5 v. *associatos unctos corporis domini*, Admont MS 7, fol. 61v; clm 10247, fol. 46v; Archivio S. Pietro C.114, fol. 54v; Vat. lat. 2280, 44r; Codex Clausteronesburgensis 89, fol. 58r. "De coactione tamen distinguo aut est absoluta aut est conditionalis, si absoluta coactione quis baptizetur puta unus tenet eum ligatum, et alius superfundit aquam, nisi postea consentiat, non debet cogi ad tenendam fidem christianam. Set tamen baptizatur et sacramentum accipit, quia siue uolens siue nolens, siue uigilans siue dormiens, quis baptizetur in forma ecclesie sacramentum accipit, si uero coactione condicionali quis baptizetur, puta te uerberabo uel spoliabo, uel interficiam uel ledam, nisi baptizeris, debet cogi ut fidem teneat, quia per talem coactionem de nolente efficitur, quis uolens, et uolens baptizatur, uoluntas enim coacta, uoluntas est, et uolentem facit." Cf., Colish, *Faith, Fiction, and Force*, 283-84; Condorelli, *I fondamenti giuridici della tolleranza religiosa*, 52-58, 74-75; Czerwinski, "Teachings of the Twelfth and Thirteenth Century Canonists," 157-59; Magin, *Der Status der Juden*, 167; Pennington, "Gratian and the Jews," 118-19; Irène Rosier-Catach, *La parole efficace: signe rituel, sacré* (Paris: Éditions du Seuil, 2004), 629, n. 102; Weigand, *Glossatoren des Dekrets*, 40, 405. "Coacta uoluntas uoluntas est" was or became a legal maxim. See, Helmholz, "Baptism," 121.

binding on a non-Christian baptised under duress.¹⁰¹

Analysis of Huguccio's commentary on *De Iudeis* often ends here,¹⁰² but Huguccio did not. He continued that some would argue that a person conditionally compelled to accept baptism cannot be forced to remain Christian, just as one who had made a promise under coercion "would assert an exception" that he should not be compelled to fulfil that promise.¹⁰³ The reason why such an exception did not apply where baptism was concerned, Huguccio contended, was set forth in the canon itself: "they are compelled to keep the faith — accepted through violence or necessity, conditional or absolute — if they consented afterwards, lest the faith be held worthless and contemptible."¹⁰⁴ Huguccio continued that although one can be compelled to receive or maintain the faith, "the faith of the heart is not meant, rather the external faith," that is the outward observance of Christianity, is meant, because no one can believe involuntarily.¹⁰⁵ The unwillingly baptised were not to be expected to share the Christian faith, only its externalities. In contrast, Huguccio added, one who receives baptism willingly or consents subsequently "must maintain everything."¹⁰⁶

Huguccio's *Summa* was highly influential, but later commentators could and did ignore or disagree with him on the questions of coercion and reversion. Attributed to his school, the

¹⁰¹ This argument can be problematic for some scholars. Pennington, for example, claims that other canonists disagree with Huguccio, because they maintained that invalidly exacted confessions were invalid and cannot be subsequently validated. "Gratian and the Jews," 118. See also, Jenny Benham regarding oaths *Peacemaking in the Middle Ages: Principles and Practice* (Manchester and New York: Manchester University Press, 2001), 152. As Isabelle Poutrin has noted, however, canonists distinguished between baptism, where conditional and absolute coercion determined the sacrament's validity, and ordination, marriage, and oaths. See "Theorizing Coercion and Consent in Conversion, Apostasy, Ordination, and Marriage (Sixteenth and Seventeenth Centuries)," in *Forced Conversion in Christianity, Judaism and Islam*, ed. Mercedes García-Arenal and Yonatan Glazer-Eytan (Leiden and Boston: Brill, 2020), 86-108.

¹⁰² Cf. Colish, *Faith, Fiction, and Force*, 283-84; Pennington, "Gratian and the Jews," 118.

¹⁰³ *Summa Decretorum* D. 45 c.5 v. *corporis domini*, Admont MS 7, fol. 61v; clm 10247, fol. 46v; Archivio S. Pietro C.114, fol. 54v; Vat. lat. 2280, 44r; Codex Clausteronesburgensis 89, fol. 58r. "Sed dicet aliquis nonne coactus condicionali coactione, potest pretendere exceptionem ut non cogatur retinere *fidem*, sicut qui per talem coactionem promittit aliquid allegat exceptionem, ut non cogatur soluere."

¹⁰⁴ *ibid.*, Admont MS 7, fol. 61v; clm 10247, fol. 46v; Archivio S. Pietro C.114, fol. 54v; Vat. lat. 2280, 44r; Codex Clausteronesburgensis 89, fol. 58r. "Dico quod non, et ratio redditur in capitulo, scilicet ne fides haberetur uilis, et contemptibilis cogantur tenere *fidem* quam ui uel necessitate, condicionali uel absoluta si postea consenserunt."

¹⁰⁵ *ibid.*, Admont MS 7, fol. 61v; clm 10247, fol. 46v; Archivio S. Pietro C.114, fol. 54v; Vat. lat. 2280, 44r; Codex Clausteronesburgensis 89, fol. 58r. "Sed super apostolum habetur, cetera potest homo nolens sed non potest credere nisi uolens, qualiter ergo quis potest cogi, ut *fidem* suscipiat uel teneat, sed non dicitur *fides cordis*, sed dicitur hic *fides extrinsecus*, extrinsecus ritus et cultus *christianorum*, uel dicitur hic *fides*, id est sacramentum *fidei*, scilicet baptismum."

¹⁰⁶ *ibid.*, Admont MS 7, fol. 61v; clm 10247, fol. 46v; Archivio S. Pietro C.114, fol. 54v; Vat. lat. 2280, 44r; Codex Clausteronesburgensis 89, fol. 58r. "Sed dicitur cogantur tenere, quantum ad exhibitionem exteriorum operum, scilicet ut uiuant secundum ritum *christianorum*, ex quo enim quis suscipit baptismum sponte uel consentit postea, ad omnia ea seruanda tenetur que exigit baptismus, et *fides christianorum* ne *fides uilis*." Peter Lombard makes a similar distinction in his *Sentences*. Peter the Lombard, *Sententiae in IV Libris Distinctae* Bk. 4, Dist. 4, c. 1-2 (26-7), 3d ed. (Rome: Grottaferrata, 1981), 2:252-3.

Ordinaturus magister glossed *De Iudeis* without reference to Huguccio in both its recensions. Like the first recension of c.1180, the second recension of the late 1180s explains *De Iudeis* using Rufinus' distinction between permissible and impermissible coercion. Its gloss on coercion is more limited: a cross-reference to *Plerique ex Iudeis*.¹⁰⁷ The *Summa Reginensis*, a commentary of the late 1180s or early 1190s that survives in a single manuscript copy, in contrast, adopted aspects of Huguccio's interpretation.¹⁰⁸ This *Summa* posited that someone who had been compelled at first but afterward became willing was "compelled not by absolute but by conditional coercion."¹⁰⁹ Nonetheless, on the question of whether someone baptised using absolute coercion was obligated to remain Christian, the author of the *Reginensis* referred to Gandulphus and his argument that the absolutely coerced were bound to the Church. The *Reginensis* concluded "[l]ikewise when anyone is baptised by conditional coercion, he is bound to the rule of the Church," without exception, lest the name of the Lord be blasphemed, as in *De Iudeis*.¹¹⁰ Similarly, Bernard of Pavia (d. 1213) in commenting on Gregory I's *Multorum ad nos*, which prohibits Jews employing Christian servants, in his *Summa decretalium* echoed and diverged from Huguccio on coercion and its effects.¹¹¹ Alluding to *Qui sincera*, he reiterated that Jews and Muslims ought to be drawn to Christianity by reason and persuasion, but he made its injunction against "asperity" less forceful. Replacing "non asperitate" with "potius quam asperitate," he declared "they are not to be compelled, because coerced servants are not pleasing to the Lord."¹¹² Bernard concluded, nevertheless, that if the coerced receive the sacrament of baptism, but afterwards become unwilling and withdraw from Christianity, "they are to be

¹⁰⁷ *Apparatus Ordinaturus magister*, Erlangen, Universitätsbibliothek, MS 342, fol. 43r; Munich, Bayerische Staatsbibliothek, clm 28175, fol. 36v; Vatican City, Bibliotheca Apostolica Vaticana, MS lat. 2494, fol. 27r. "Sed coactio alia est per corporalem uolentiam que hic [his in Vat. lat. 2494] interdicatur; alia per exactionis instantiam, utpote usararum uel pensionis quod ibi mandatur fieri, uel ibi dicitur rustico apostata hic de non renato agitur." On the *Ordinaturus magister* and its relationship to Huguccio, see Müller, *Huguccio*, 4-5; Weigand, *Glossatoren des Dekrets*, 371-401.

¹⁰⁸ Müller, *Huguccio*, 107; Weigand, *Glossatoren des Dekrets*, 411.

¹⁰⁹ *Summa Reginensis*, Vatican City, Bibliotheca Apostolica Vaticana, MS Reg. lat. 1061, fol. 8r. "Coacti fuerunt a principio sed tamen postea facti fuerint uolentes uel dicas coacti fuerunt non absoluta coactione sed conditionali."

¹¹⁰ *ibid.*, fol. 8r. "Item quando aliquis baptizatus est coactione conditionali uere obligatus est ad regulam ecclesie, sed queritur non habet exceptionem si quis cum uelit ad hoc compellere quem admodum ubi qui supra permetum aut cum permisit est quidem obligatus ad dandum si tamen conueniatur habet exceptionis bene. Respondeo in capitulum scilicet nomen domini blasphemetur, uidetur contra c. de iudeis, et cetera licet nemo scilicet illic uocat legem consuetudinem."

¹¹¹ Bernard of Pavia's *Summa* is a commentary on his *Compilatio prima* of circa 1190, and should not be confused with Bernard of Parma's glossa and commentaries on the later *Decretales Gregorii*.

¹¹² *Summa Decretalium 5.5, Bernardi Papiensis Summa Decretalium*, ed. Ernst Adolph Theodor Laspeyres (Graz: Akademische Druck- U. Verlagsanstalt, 1956), 211. "Debent autem tam iudei quam sarraceni auctoribus rationibus et blandimentis potius quam asperitatibus ad christianam fidei prouocari non autem compelli, quia coacta seruitia domino non placent, vt ff. xlv. qui sincera de iudeis." Bernard studied at Bologna and, presumably, had access to the *Decretum* and the original version of this canon. Cf. Colish, *Faith, Fiction, and Force*, 283-84; Kedar, "Muslim Conversion in Canon Law," 329; *idem*, *Mission and Crusade*, 74.

compelled to return” as specified in *De Iudeis*.¹¹³

These *Summae* attest to the extent to which decretists of the twelfth century disagreed about the sacramental effects of forcible baptism and the possibility of reversion. Some commentators simply reiterated the long-standing prohibition against coercion, while others argued that all baptisms were valid, no matter how illicitly performed. Some even contended that coercion, at least under certain circumstances, rendered a baptism invalid.¹¹⁴ Several of these decretists, however, maintained that an illicitly performed baptism could be made valid with participation in Christian rites, *post facto* consent, conditional coercion, and similar means by which unwilling baptisands might be defined into willing converts. The decretists were, of course, not setting forth legislation or policy, but their academic debates bequeathed the notion that converts could be considered to have consented without actually having done so to the popes, and specifically to pope Innocent III and his secretaries, who did issue decretals that would affect forcibly baptised Jews and other non-Christians.

***Maiores ecclesiae* and its aftermath**

Responding to queries from Imbertus, the bishop of Arles, about the effects of baptism in the absence of consent, Innocent III issued what would become the authoritative definition of when the forcibly baptised were Christians, subject to the Church and its laws, in a decretal of 1201. Asked, among other things, “whether the stamp of the sacrament is impressed on the

¹¹³ *Summa Decretalium* 5.5, p. 211. "Si tamen prius coacti perceperint sacramentum baptismi et postea de uolentibus facti sunt nolentes, si postea recesserint a nostra fide, sunt compellendi redire."

¹¹⁴ In so far as I am aware, a study comparing medieval canonists' attitudes toward coercion in baptism, ordination, and marriage remains a *desideratum*. There are, however, several interesting studies on compulsion and marriage, including: James Brundage, "Implied Consent to Intercourse," in *Consent and Coercion to Sex and Marriage in Ancient and Medieval Societies* (Washington, D.C.: Dumbarton Oaks, 1993), 246-54; Art Cosgrove, "Consent, Consummation and Indissolubility: Some Evidence from Medieval Ecclesiastical Courts," *Documents et recherches: Bulletin de la Société archéologique, historique et géographique de Creil* 109 (1991): 94-104; Irvn Resnick, "Marriage in Medieval Culture: Consent Theory and the Case of Mary and Joseph," *Church History* 69.2 (2000): 366; Winroth, "Marital Consent in Gratian's *Decretum*," 111-21.

sleeping and the mad in baptism,”¹¹⁵ Innocent III turned from those who could not consent to those who did not consent. Having declared that, “it is contrary to the Christian religion that the always unwilling and thoroughly objecting should be compelled to receive and keep Christianity,”¹¹⁶ Innocent argued, much as Huguccio had, that unlike the “always unwilling and thoroughly objecting,” those who had agreed to be baptised under duress should be compelled to remain Christian. According to Innocent,

others not illogically distinguish between unwilling and unwilling, coerced and coerced, because one who is drawn violently by fear and threats, lest he incur injury, receives the sacrament of baptism. Indeed, such a man, like the one who falsely agrees to baptism, receives the impressed stamp of Christianity, and since he is conditionally willing, though not absolutely willing, he is to be compelled to observe the Christian faith. In which event, the council of Toledo should be understood.¹¹⁷

After quoting the relevant passage from *De Iudeis*, Innocent turned briefly to the absolutely

¹¹⁵ *Maiores ecclesiae*, in *Compilatio tertia*, Munich, Bayerische Statsbibliothek, clm 3879, fol. 236r.; *Decretales* 3.42.3 (X.3.42.3), *Corpus iuris canonici*, 2:646; Doc. 77, in *The Apostolic See and the Jews: Documents*, 80; Notice n°30473, projet RELMIN, <http://telma.irht.cnrs.fr/outils/relmin/extrait30473/>; Simonsohn, *The Apostolic See and the Jews*, 243-44.. "Item [iterum in X.3.42.3] vero queritur, utrum huiusmodi dormientibus et amentibus sacramenti saltem character [character in X.3.42.3] in baptisate imprimatur, ut excitati a sompno [somno in X.3.42.3] vel ab egritudine liberati non sint denuo baptizandi." N.b. I treat Innocent as the author, in the sense that he was the authority responsible for this decision and in whose name it was issued, and refer to the letter issued in 1201 as *Maiores ecclesiae* to distinguish it from *Maiores* (X.3.42.3), the decretal in the *Decretales Gregorii IX*, since its compiler, Raymond of Peñafort, altered his sources. This decretal does not survive in Innocent's register, so I have consulted both the *Compilatio tertia*, which was compiled during Innocent's papacy, and the *Decretales*; where they conflict, I have opted to use the *Compilatio tertia* for the text of *Maiores ecclesiae*. On the *Compilatio tertia* and the *Decretales Gregorii IX*, see, *inter alia*, Brundage, *Medieval Canon Law*, 222; Conte and Ryan, "Codification in the Western Middle Ages," 84-89; Charles Duggan, "Decretal Collections from Gratian's *Decretum* to the *Compilationes antiquae*; The Making of the New Case Law," in *The History of Medieval Canon Law*, 246-292; Stefan Kuttner, "Raymond of Peñafort as Editor: The 'Decretales' and 'Constitutiones' of Gregory IX," *Bulletin of Medieval Canon Law* 12 (1982): 65-80; Kenneth Pennington, "Decretal Collections 1190-1234," in *The History of Medieval Canon Law*, 309-311; Edward Reno, "The Authoritative Text: Raymond of Peñafort's Editing of the Decretals of Gregory IX (1234)" (Ph.D. diss., Columbia University, 2011), 6-7, 65-77.

¹¹⁶ *Maiores ecclesiae*, *Compilatio tertia*, clm 3879, fol. 236r.; X.3.42.3, 2:646; Doc. 77, *The Apostolic See and the Jews: Documents*, 80. "Verum idem [id in X.3.42.3] est religioni Christiane contrarium, ut semper invitus et penitus contradicens ad recipiendam et servandam Christianitatem aliquis compellatur."

¹¹⁷ *Maiores ecclesiae*, *Compilatio tertia*, clm 3879, fol. 236r.; X.3.42.3, 2:646; Doc. 77, *The Apostolic See and the Jews: Documents*, 80. "Propter quod inter invitum et invitum, coactum et coactum, alii non absurde distinguunt, quod is qui terroribus atque suppliciis violenter attrahitur, et ne detrimentum incurrat, baptismi suscipit sacramentum, talis quidem, sicut et is, qui fecte ad baptismum accedit, characterem [characterem in X.3.42.3] suscipit Christianitatis impressum, et ipse tanquam conditionaliter volens, licet absolute non velit, cogendus est ad observantiam fidei Christiane; in quo casu debet intelligi decretum concilii Toletani, ubi dicitur quod qui iam pridem ad Christianitatem coacti sunt, sicut factum est temporibus religiosissimi principis Sisebuti, quia iam constat eos sacramentis divinis associatos, et baptismi gratiam suscepisse, et chrismate unctos esse, et corporis Domini exstitisse participes, oportet etiam ut fidem, etiam [etiam not in X.3.42.3] quam necessitate susceperunt, tenere cogantur, ne nomen Domini blasphemetur, et fides quam susceperunt vilis ac contemptibilis habeatur (Tol. IV, c. 57)." See also, Colish, *Faith, Fiction, and Force*, 284-89; Condorelli, *I fondamenti giuridici della tolleranza religiosa*, 74-75, 89-106; Czerwinski, "Teachings of the Twelfth and Thirteenth Century Canonists," 162-74; Goldin, *Apostasy and Jewish Identity*, 44; Kedar, *Crusade and Mission*, 73; Magin, *Der Status der Juden*, 167-68; Rosier-Catach, *La parole efficace*, 283-84; Simonsohn, *The Apostolic See and the Jews: History*, 243-44.

unwilling, dictating that “one who never agrees, but thoroughly refuses, receives neither the substance nor the sign of the sacrament.”¹¹⁸ Of course, given the methods used to impel Jews and other non-Christians to accept baptism, those who might be considered absolutely unwilling under this metric were unlikely to survive the experience.¹¹⁹

Yet *Maiores ecclesiae* also suggests this border between Judaism and Christianity was redefined more to defend Christian orthodoxy and infant baptisms than to injure Jews. Innocent had, after all, been asked not about Jews or baptism under duress, but about baptism without consent, so that the archbishop might repulse “heretics attacking our Church.”¹²⁰ These heretics argued, according to Innocent, that because young children did not discern, consent, or have affection, their baptism was not efficacious. By 1215, of course, most Christians were baptised as very young children and the sacrament was seen as transforming its recipients into Christians, conferring what it had once signified.¹²¹ Thus, heretical challenges to baptism’s sacramental efficacy may have made reversion a more daunting issue than it might otherwise have been. For, as Peter the Venerable argued decades earlier in his anti-heretical treatise, if those baptised in infancy were not Christians, there would be no Christians in Christendom.¹²² Peter thus emphatically maintained the validity of infant baptisms as binding and salvific though the infants themselves could neither believe nor consent,¹²³ as did Innocent’s *Maiores ecclesiae*. It was, precisely because small children who “do not consent ... receive the sacrament” that some infer

¹¹⁸ *Maiores ecclesiae, Compilatio tertia*, clm 3879, fol. 236r; X.3.42.3, 2:646; Doc. 77, *The Apostolic See and the Jews: Documents*, 80. “Ille vero, qui nunquam consentit, sed penitus contradicit, nec rem, nec caracterem [characterem in X.3.42.3] suscipit sacramenti, quia plus est expresse contradicere quam minime consentire: sicut nec ille notam alicuius reatus incurrit, qui contradicens penitus et reclamans turificare [thurificare in X.3.42.3] ydolis [idolis in X.3.42.3] cogitur violenter.” Cf. Colish, *Faith, Fiction, and Force*, 288.

¹¹⁹ Solomon Grayzel, *The Church and the Jews in the XIII Century: A Study of their Relations during the Years 1198-1254, Based on the Papal Letters and Conciliar Decrees of the Period* (New York: Hermon Press, 1966), 15; Magin, *Der Status der Juden*, 168; Resnick, “Marriage in Medieval Culture,” 366.

¹²⁰ *Maiores ecclesiae, Compilatio tertia* 3.34.1, clm 3879, fol. 235r. “Hoc igitur denotasse sollicitate coniecimus evidenter, qui ut hereticos ecclesiam impugnantes melius nostram munitus auctoritate repellas quibusdam questionibus quas contra catholicos mouerant nos postulas.” Cf. X.3.42.3, 2:644. “Quibusdam igitur quaestionibus, quas contra catholicos haeretici moverant, nos postulas respondere.” On heresy and the sacrament of baptism, see Dominique Iogna-Prat, *Order and Exclusion: Cluny and Christendom Face Heresy, Judaism, and Islam (1000-1500)*, Graham Robert Edwards, trans. (Ithaca and London: Cornell University Press, 1998), 108-113, 148-261.

¹²¹ Marcia Colish, *Peter Lombard* (New York: E.J. Brill, 1994), 2: 520. See also, *Decretum Gratiani* D. 4 de cons. c. 74-76, 1387; Cramer, *Baptism and Change*, 7-8, 178-220, 254-266; Hugh of St. Victor, *De Sacramentis* 2.6.13 PL, ed. J-P Migne, v. 176 (Paris: Garnier Frères, 1880), 459; Peter the Lombard, *Sententiae in IV Libris* Bk. 4, dist. 4, c. 2 (27).3, 3d ed. (Rome: Editiones Collegii S. Bonaventurae ad Claras Aquas, 1981), 253; John Van Engen, “Faith as a Concept of Order in Medieval Christendom,” in *Belief in History*, ed. Thomas Kselman (Notre Dame, IN: University of Notre Dame Press, 1991), 25, 27-29.

¹²² *Contra Petrobrusianos* 11, *Petri Venerabilis Contra Petrobrusianos hereticos*, ed. James Fearn (Turnhout: Brepols, 1968), 13-14. See also, Iogna-Prat, *Order and Exclusion*, 151-152; Brian Stock, *The Implications of Literacy: Written Language and Models of Interpretation in the Eleventh and Twelfth Centuries* (Princeton, N.J.: Princeton University Press, 1983), 110-111, 125-126; R.I. Moore, *The Origins of European Dissent* (London: Allen Lane, 1977; repr. Toronto: University of Toronto Press, 1994), 8-20, 23-45 53-114.

¹²³ *Contra Petrobrusianos* 81, 51. “Sacramento igitur circumcisionis et aliena fide saluabatur Iudeus, sacramento baptismi et aliena fide saluatur per Christi gratiam Christianus.”

from this that the sleeping, insane, unwilling, and objecting also receive the sacrament.¹²⁴ The ability of the forcibly baptised Jews and others to revert may then have been collateral damage in the canonical efforts to shore up the validity and efficacy of infant baptisms, a “legal answer to a theological question.”¹²⁵

Of course, *Maiores ecclesiae* never explicitly mentioned Jews,¹²⁶ but its reference to *De Iudaeis* suggests that it was intended to apply to them. Subsequent commentators certainly assumed that that it did. Many of them — including Raymond de Peñaforte and the ordinary glosses — refer to *De Iudeis* when explaining *Maiores ecclesiae* and to *Maiores ecclesiae* when explaining *De Iudeis*.¹²⁷ Moreover, when the Fourth Lateran Council promulgated a canon prohibiting the reversion of Jewish converts more than a decade later, it dictated that those who had been baptised willingly (*qui ad sacri undam baptismatis uoluntarii acceserunt*) were not to observe any Jewish rites and instructed ecclesiastical authorities to forestall any reversions.¹²⁸ In language that echoed *Maiores ecclesiae*, *De Iudeis*, and *Plerique ex Iudeis*, the council instructed that “such persons are to be completely restrained from the observance of their former rite by the Church's prelates, so that those whom the exercise of free will brought to the Christian religion,

¹²⁴ *Maiores ecclesiae, Compilatio tertia*, clm 3879, fol. 236r; X.3.42.3, 2:646; Doc. 77, *The Apostolic See and the Jews: Documents*, 80. “Sunt autem nonnulli, qui dicunt quod sacramenta, que per se sortiuntur effectum, ut baptismus, et ordo, ceteraque similia, non solum dormientibus et amentibus, sed invitis etiam et contradicentibus, etsi non quantum ad rem, quantum tamen ad characterem [characterem in X.3.42.3] conferuntur, quum non solum parvuli, qui non consentiunt, sed et ficti, qui quamvis non ore, corde tamen dissentiunt, recipiant sacramentum.” Cf. Rosier-Catach, *La parole efficace*, 283-84. On the *res* of baptism, that is the remission of sin, and its character or impression, see Peter the Lombard, *Sententiae in IV Libris Distinctae* Bk. 4, Dist. 4, c. 1(26)-7(32), 2:252-63.

¹²⁵ Diego Quaglioni made this observation in regards to another aspect of canon law and the status of Jews at “The Legal Status of Jews and Muslims in the *Ius Commune*” in October 2012.

¹²⁶ Colish, *Faith, Fiction, and Force*, 289.

¹²⁷ See, Bartholomeus Brixiensis, Johannes Teutonicus, *Glossa ordinaria in Decretum Gratiani, Decretum cum glossa ordinaria*, D. 45 c. 5, Rome, Bibliotheca Apostolica Vaticana, Vat. lat. 2491, fol. 61v. “Coactio conditionalis de qua hic loquitur non impedit baptismi sacramentum, nec etiam sacramentum ordinis. ut lxxiiii. di. vbi impedit tamen sacramentum matrimonii ut extra de sponalibus cum locum sed si fuerit absoluta coactio, nullus character imprimatur: ut extra de baptismo et eius effectu maiores, sed in dorminetibus et amentibus distinguitur. Quod si prius habebant propositum baptizandi: recipiunt caracterem in aliter non, ut ibidem dicitur in fine dormiens possessionem non accipit ff. de acquirat pos. l. i. *vilis* [Digest 41.2.1].” *Decretales cum glossa ordinaria* 3.42.3, Rome, Biblioteca Apostolica Vaticana, Vat. lat. 1391, fol. 209r. “*Christiane contrarium*, quia ad fidem nullus compelli debet inuitus, sed sicut libera uoluntate perit, ita libero arbitrio conuertatur, xlv. di. de iudeis, etc.” Raymond de Peñaforte, the *Decretales*’ compiler draws a similar comparison in his *Summa de paenitentia*, ed. Xaviero Ochoa and Alosio Diez (Rome: Commentarium pro Religiosis, 1976), 309-310. See, also, Colish, *Faith, Fiction, and Force*, 290-91; Kedar, *Crusade and Mission*, 74.

¹²⁸ Fourth Lateran Council (Lateran IV hereafter), c. 70, *Constitutiones quarti Lateranensis una cum commentariis glossatorum*, ed. Antonio Garcia y Garcia (Vatican City: Bibliotheca Apostolica Vaticana, 1981), 109.

the exigency of salubrious compulsion shall retain in its observance.”¹²⁹ Vincentius Hispanus’ commentary on Lateran IV also elucidated canon 70 with references to both *De Iudeis* and *Maiores ecclesiae*.¹³⁰

Even if Innocent did not intend *Maiores ecclesiae* to apply to Jews, it undoubtedly came to do so. Incorporated into the *Decretales*, which both abrogated earlier collections and promulgated its own canons in 1234, *Maiores* attained the force of law that the *Decretum* and the twelfth-century *Summae* did not have.¹³¹ As Czerwinski notes “[t]he *Decretales* ... were the laws. Now the canonists could not argue about what the law was (No more statements such as Huguccio’s about Gandulphus, ‘He is wrong’).”¹³² Thus, Innocent’s decision would effectively forestall almost all baptised Jews’ return to Judaism, trapping the unwillingly and willingly baptised alike within the Church as the decretists’ wrangling had not. It also remained in force for centuries after. Even as the specific circumstances surrounding forced baptisms changed, the rule about when a forced baptisand was to be considered a Christian seems to have been remarkably stable. As late as 1747, Pope Benedict XIV maintained that conversions should not be coerced, but if a baptism were received due to threats or fear, then that baptism was valid.¹³³

Finally, when *Turbato corde* expanded inquisitors’ authority to Christians who had “transferred themselves to the Jewish rite” in 1267,¹³⁴ the criteria used to determine whether a baptised Jew was subject to the Church and inquisitorial jurisdiction was that set forth by Innocent III. Pope Nicholas III used it in his *Sicut nobis significare* of 1278, which was reissued

¹²⁹ *ibid.*, 109. "Cum autem scriptum sit maledictus sit homo qui terram duabus uis ingreditur (cf. Eccl. 2.14, 3.28), et indui uestis non debeat lino lanaque contexta (cf. Deut. 22.11), statuimus ut tales per prelatos ecclesiarum ab obseruantia ueteris ritus omnino compescantur, ut quos christiane religioni libere uoluntatis arbitrium optulit, salutifere coactionis necessitas in eius obseruatione conseruet, cum minus malum existat uiam Domini non agnoscere quam post agnitam retroire (cf. 2 Pet. 2.21)." See also, Linda Beckum, "The Fourth Lateran Council of 1215: Church Reform, Exclusivity, and the Jews," Ph.D. dissertation, University of Kentucky, 2005; Chazan, "Pope Innocent III and the Jews," 187-204; Lotter, "Imperial versus Ecclesiastical Jewry Law," 53-60.

¹³⁰ Vincentius Hispanus, *Apparatus in Concilium quartum Lateranense* c. 70, *Constitutiones Concilii quarti Lateranensis*, ed. García y García, 379. See also, Dámaso, *Apparatus in Concilium quartum Lateranense*, *ibid.*, 458; Johannes Teutonicus who cited only *De Iudeis* in his *Apparatus in Concilium quartum Lateranense* 70, *ibid.*, 268.

¹³¹ *Rex pacificus*, *Corpus iuris canonici*, 2:2-3.

¹³² Czerwinski, "The Teachings of the Twelfth and Thirteenth Century Canonists," 180-81. See also, Colish, *Faith, Fiction, and Force*, 291-92; Kedar, *Crusade and Mission*, 169-70, 184-87, 223-24; Lotter, "Imperial versus Ecclesiastical Jewry Law," 58-59; Simonsohn, *The Apostolic See and the Jews*, 243-4.

¹³³ Marina Caffiero, *Forced Baptisms: Histories of Jews, Christians, and Converts in Papal Rome*, trans. Lydia Cochrane (Berkeley and Los Angeles: University of California Press, 2012), 60-61.

¹³⁴ Clement IV, *Turbato corde*, Doc. 230, in *The Apostolic See and the Jews: Documents*, 238-39. "Turbato corde audiuimus et narramus, quod quamplurimi reprobi Christiani, ueritatem Catholice fidei abnegantes, se ad ritum Iudaicum dampnabiliter transtulerunt, quod tanto magis reprobum forte dinoscitur, quanto ex hoc Christi nomen sanctissimum quadam familiari hostilitate securius blasphematur." See also, Notice n°268771, projet RELMIN, <http://www.cn-telma.fr/remlin/extrait268771/>; Grayzel, "Popes, Jews and Inquisition from ‘Sicut’ to ‘Turbato’," in *Essays on the Occasion of the Seventieth Anniversary of the Dropsie University*, ed. Abraham Katsh and Leon Nemoy (Philadelphia: Dropsie University, 1979), 151-88; Magin, *Der Status der Juden*, 170; Paola Tartakoff, "Conversion and return to Judaism in High and Late Medieval Europe: Christian Perceptions and Portrayals," in *Contesting Inter-Religious Conversion in the Medieval World* (London and New York: Routledge, 2017), 182.

by Nicholas IV again in 1288, directing Dominicans in La Marche that, “many of the said Jews were baptised in fear of death ... yet were not absolutely or positively coerced.”¹³⁵ These Jews should be returned to the Catholic faith and proceeded against as against heretics if they proved recalcitrant. A similar bull, attributed to Boniface VIII, was incorporated into the *Liber sextus*.¹³⁶ In the chapter dedicated to the “perfidy of the Jews,” Bernard Gui’s fourteenth-century manual for inquisitors stated that “it is established that Christians, who went over or returned to the rite of the Jews, whether they were baptised while they were infants or in fear of death, although not if coerced absolutely or positively, are to be ... reckoned as heretics.”¹³⁷

In his court in 1321, Jacques Fournier used these criteria to determine Baruch’s status within Christian law. He asked Baruch if he had “protested in word or in deed or showed a contrary will by resisting that he did not want to be baptised” during the rite itself.¹³⁸ Baruch responded in the negative, explaining that he had been told that he would be killed should he protest or resist. On these grounds, Fournier determined that because Baruch’s baptism “was received not by force or absolute coercion, it obliged him according to law and reason to keep

¹³⁵ Nicholas III, *Sicut nobis significare*, Doc. 241, in *Apostolic See and the Jews: Documents*, 248-49; Nicholas IV, *Sicut nobis significare*, Doc. 258, in *Apostolic See and the Jews: Documents*, 266. "Sicut nobis significare curastis, dudum in comitatu Marchiae contra [Iudaeos] inibi commorantes per Christianos illarum partium persecutionis insurgente procella, plures ex dictis Iudaeis metu mortis, quae eis per praefatos Christianos inferebatur, non tamen absolute seu precise coacti, se baptisari fecerunt." Grayzel suggested that only Nicholas IV issued this bull, "Popes, Jews, and Inquisition," 79, n. 106. See also, Magin, *Der Status der Juden*, 190; Rist, *Popes and the Jews*, 78; Paola Tartakoff, *Between Christian and Jew: Conversion and Inquisition in the Crown of Aragon 1250-1391*, (Philadelphia: University of Pennsylvania Press, 2012), 28; Yosef Yerushalmi, "The Inquisition and the Jews of France in the Time of Bernard Gui," *The Harvard Theological Review* 63.3 (1970): 341.

¹³⁶ Boniface VIII, *Contra Christianos*, Doc. 278, in *Apostolic See and the Jews: Documents*, 285-86; *Liber sextus* 5.2.13, *Corpus iuris canonici*, 2:1075. See also, Magin, *Der Status der Juden*, 170. Commentators on this decretal, moreover, often cited *Maiores ecclesiae* and *De Iudeis* in explicating it. See, e.g. Guido de Baysio, *Apparatus in Librum Sextum* 5.2.13, Rome, Biblioteca Apostolica Vaticana, MS Vat. lat. 1452, fol. 112r-112v; MS Vat. lat. 1393, fol. 132v; Johannes Andrea, *Glossa ordinaria in Liber sextum* 5.2.13, Rome, Biblioteca Apostolica Vaticana, MS Vat. lat. 1392, fol. 74v; MS Vat. lat. 1393, fol. 231r; Johannes Monachus, *Apparatus* 5.2.13, MS Vat. lat. 1392, fol. 67v.

¹³⁷ Bernard Gui, *De modo, arte, et ingenio inquirendi et examinandi hereticos* 5.1, *Manuel de l'Inquisiteur*, ed. Guillaume Mollat (Paris: Champion, 2006), 2:6. "Statutum est autem ut contra christianos qui ad ritum transierint vel redierint Judeorum, etiamsi huiusmodi redeuntes dum erant infantes aut mortis metu, non tamen absolute seu precise coacti, baptizati fuerint, est tanquam contra hereticos, si fuerint de hoc confessi, aut per christianos seu Judeos convicti et sicut contra fautores, receptatores et defensores hereticorum, contra fautores, receptatores et defensores talium procedendum." Gui further specified that inquisitors should ask about the circumstances of Jews' or a lapsed Jewish converts' baptism. Similar advice was to be found in contemporary *consilia*. See e.g. "*Consilium* di canonisti e civilisti padovani sul tema degli ebrei," *I consilia procedurali per l'inquisizione medievale (1235-1330)*, ed. Riccardo Parmeggiani (Bologna: Bononia University Press, 2011), 124.

¹³⁸ Fournier, *Registre d'Inquisition*, 1:183. "Interrogatus per dictum dominum episcopum si quando stetit ante dictum capellanum et dictus capellanus procedebat in officio baptismi, vel etiam quando fuit positus in fontibus baptismalibus, et in actu ipsius baptismi, reclamavit verbo vel facto vel ostendit voluntatem contrariam resistendo, quod nollet baptizari, dixit quod non, timens ne interficeretur, si hoc faceret vel diceret, et quia paterni sui dicebant sibi quod diceret ante capellanum quod bono corde veniebat ad baptismum, alias quod interficeretur, et hoc, ut credit, audivit dictus capellanus, et super hoc, ut dixit, staret eiusdem capellani iuramento quem supplicet interrogare si videlicet credit quod ipse loquens interficeretur si contradiceret vel resisteret verbo vel facto."

and believe the Christian faith.”¹³⁹ If he remained “in Judaism,” he would be proceeded against as against an obstinate heretic. His conditional consent had made his baptism “indelible.”¹⁴⁰

Baruch’s baptism owes at least some of its indelibility to Innocent III, Huguccio, and the *Decreta*. Fournier’s inquiry into the circumstances of Baruch’s baptism followed the criteria set forth by Innocent III in *Maiores*. Innocent’s decretal was built upon the interpretative framework erected by the twelfth-century decretists, particularly Huguccio, in their efforts to understand and to explain conflicting canons on coercion and reversion within the *Decretum Gratiani*. Quite aware of and closely engaged with the “paradox” of illicit but valid baptisms under compulsion,¹⁴¹ their various and sometimes competing solutions to this paradox included both *post facto* consent and a distinction between conditional and absolute coercion. The *Decretum* itself played a vital role in establishing *De Iudaeis*, as opposed to other more lenient canons, as the juridic norm governing reversion. It had not, after all, built on centuries of consensus. Before its widespread adoption, a wide array of norms, including those that allowed, or even mandated, reversion when the baptisand had been unwilling or simply insincere, appear within canonical collections and edicts. Baruch and Idumeus-Doech’s divergent fates were then, at least in part, the result of the quite different canons around baptism and return that held sway in the years of their respective baptisms.

¹³⁹ *ibid.*, 1:184-85. "Et in continenti dictus dominus episcopus hortatus fuit dictum magistrum Baruc monuit quod cum baptismus taliter susceptus per eum ut dictum est, quia susceptus fuerat per eum non vi vel coactione absolute, obligat eum secundum iura et rationem ad tenendam et credendam fidem christianam, quia illa necessitas que impulit traxit, quod de cetero fidem christianam crederet et teneret, alioquin sciret pro certo quod si permaneret in iudaismo obstinatus, quod procederetur contra eum secundum iura sicut contra hereticum obstinatum."

¹⁴⁰ Yerushalmi, “The Inquisition and the Jews of France,” 339, 341. See also, Kathleen Biddick, *The Typological Imaginary: Circumcision, Technology, History* (Philadelphia: University of Pennsylvania Press, 2003), 70.

¹⁴¹ Marmursztejn, *La baptême forcé des enfants juifs*, 40.