



[Max-Planck-Forschungsgruppe III](#)

“Die Regierung der Universalkirche
nach dem Konzil von Trient“

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I. Introduction

Professor David D’Avray from University College London is a historian who has done research on marriage, preaching and other aspects of medieval and early modern ecclesiastical, religious and social history, and has also done research on the Congregation of the Council.

On January 17th 2015 he met with the MPForschungsgruppe III in Frankfurt for a working session.

The purpose of the seminar was to discuss the application of methodology from sociology and anthropology disciplines to historical problems and especially to religious topics, with special reference to the Congregation of the Council.

Professor D’Avray introduced the session proposing Diplomatic (*Urkundenlehre*) as a key discipline for the analysis of any kind of document - but not to the exclusion of approaches borrowed from Sociology and Anthropology.. He stated that it is crucial to define specific questions to understand the structure of the sources studied.

The formulation of these questions will depend on the formation of the researcher and the tradition that he or she belongs to, which is why the seminar started with a short introduction of the educational background of the members of the group, their interests and the kind of questions they were taught to ask the documents.

Some of the perspectives and historiographical traditions that came up in the conversation were Cultural history -which has been worked specially in the United States by historians like Natalie Davis-, Legal history -focusing for example on the juridical perspectives when facing national identity construction -, Church history, and points of view coming from other disciplines as theology or philosophy. The doctoral students highlighted the importance of making connections between these different traditions, not only between topics and subjects but also between geographical conceptions.

Professor D’Avray explained that social theory is not always popular with historians in the Anglophone world, because it is perceived as a rigid method which forces History into the

mould of the natural science, or, alternatively, because it encourages scepticism about the possibility of objective truth; properly understood, however, Social Theory can enhance understanding of historical problems.

Cultural history for example has its roots in social anthropology and ethnological studies, disciplines that have provided tools to work with small topics, as in micro history. In fact, some historians – notably English scholars working on German history, like David Blackbourn, Geoff Eley and Richard Evans,- have criticized the tendency to work on “general histories” or on “history of structures” pointing out the importance of approaching big historical problem through local perspectives.

The German historians thus criticised – notably Hans-Ulrich Wehler and Jürgen Kocka – can be linked the a French approach that goes back to the French historian Fernand Braudel, who worked the history of the Mediterranean from a “long structure” perspective. This approach has mostly been confined to social, economic and political structures but it also works well for religious History.

The reflection on the idea of “long dureé” processes creates new questions, such as:

- How much of what we are studying is part of a large structure of religious history?
- How much of it is part of a very long-term process?
- How different is Tridentine Catholicism from medieval Catholicism? Did the Church transform after the Council of Trent? Is there a barrier between the Middle Ages and the early modern period?
- Is the Congregation of the Council a “modern” institution? Up to what extent? Does it work very differently to previous catholic institutions from a legal point of view?

In summary: Do the Council of Trent and its repercussions represent a fundamental change in the administration and governance of Catholicism?

It is in this context that questions coming from sociology specifically Max Weber's “ideal-types” method can be used in the analysis of historical problems. It should not be confused with the Popperian “scientific” method, appropriate for the natural sciences, by which scholars frame hypotheses and attempt to refute them – one counter example being enough to do so. Ideal-types are more like a rough sketch map which is progressively refined. One can also think of ideal-types as the basis of questionnaires that can be adapted to different research topics. An example of a good use of the ideal type’s method is the work of Brigide Schwarz, who started her work from the ideal type of *bureaucracy* and inquired how much this feature could be found in late medieval papal government. Precisely because she used Weber’s definition of ‘bureaucracy’ to generate her questions, she was able to see, as nobody had done before, how far medieval papal government was from fitting the ideal-type of a bureaucracy. One uses ideal-types to correct them, not to ‘demonstrate’ them.

Overall, the method of ideal types provides clear and well-defined concepts that can help historical research. Although in reality these concepts can be found in a pure form, it is necessary to have a previous clear definition to approach them in a more accurate way.

The seminar continued with the analysis of the concepts of *Condensed symbolism* and *Hierarchy*, observing the way they could be applied to the legal continuity of the Council of Trent.

- Condensed symbolism:

The questions that rise from the use of this concept are: do all religions have condensed symbolism? Is it equally important for all them?

The anthropologist Mary Douglas drew specific categories to examine the level of condensed symbolism in some religions making a comparison between the African religions of Bantu and Pigmy, with Catholicism and Protestantism. She came to the conclusion that not all religions give the same importance to symbolism. For example, evangelical Protestantism has is relatively light on ritual, as are (or where, when studied by an Anthropologist half a century ago) the African Pigmies, while Catholicism and Bantu religions attach a high value to symbolic rituals.

Ultimately, the method of the ideal types works first by defining the concept -in this case, condensed symbolism stands for various layers of meanings that are compressed in few actions-, and secondly evaluating how far does a given religion actually have this feature.

- Hierarchy.

The anthropologist Louis Dumont in his book “Homo Hierarchicus” studied the cast system in India. His argument was that there is a different way of living life in which the unit of everything is not the individual but the totality. He understood that the different casts were part of an overall unity in the same way as the different parts of the body are part of the whole. Applying this idea to the West’s individualism he concluded that the paradigm that conceives the individual as “everything” is not a universal truth; at least it did not apply to the beliefs of Hinduism.

So hierarchy is understood as a way of looking at the world, a real value. All organizations are to some extent individualistic and hierarchical, the question is how much of one or the other.

This shows that social theory can be conceived as a questionnaire that draws attention to material that otherwise would not be noticed. In this way it is an ally of empirical investigation.

II. Source analysis

Afterwards, Professor D'Avray shared with the group a document that he had worked on in the Vatican Secret Archive namely the case of a priest from Majorca to the Congregation of the Council in the seventeenth century asking for a dispensation of bigamy. The case seems at first like a "trivial" issue, but the fact is that it produced a big discussion between the cardinals of the congregation, generating contrasting legal arguments and even a different decision by the Pope.

The question is, why did this case draw so much attention?

Regarding the work in the archive, Professor D'Avray commented that some of the documents he studied are in very bad condition, and the order in which the researcher finds them is not necessarily the order in which the actions happened. Sometimes there is even no datation or several datations. This reflects that a lot of people were working at the same time on the same problem, as different people were writing commentaries in the same manuscript or producing parallel documents.

Subsequently, several comments were made on the passage, observing the implications of the case and connecting them with the *condensed symbolism* and *hierarchy* concepts.

Some ideas and conclusions that resulted from the document analysis were:

- The reason why the cardinals are worried about bigamy is not the belief that remarrying is wrong, but that is symbolically inappropriate.
- The symbolism of marriage is the Unity of Christ with the Church one to one, and if somebody marries twice the symbolism is defected.
- This symbolic defect makes this man inappropriate for priesthood.
- Catholicism has a heavily symbolic view of marriage and priesthood: the symbolism is not only a metaphor, an image in texts, but has a practical effect on social life.
- There are layers of meanings below these social practices, these being the elements that differentiate one society from another.
- In early modern Catholicism there are several layers of hierarchy -including tonsure, minor orders, deacons, bishops, etc., and the Council of Trent reinforces them.
- From the *hierarchy* concept of ideal types, the Church can be compared with the Indian cast system: conceived as a unity composed by different parts.

III. Reflecting on the legal continuity of the Council of Trent.

The ideas drawn from the text analysis probably could only be noticed after thinking comparatively.

This reinforces the consideration that category building is necessary to produce questions that make documents speak to historians. Historical method should be a mixture between asking the proper questions and be able to listen to the answers that follow.

Authors like Adriano Prospero have stated that the big change that the Council of Trent meant from a legal perspective was that the task of interpretation was removed from the public domain and transferred to the congregation, which meant that the decrees of the Council – unlike previous councils and ecclesiastical assemblies- did not become part of the greater canon law tradition. The problems would not be resolved by courts any more, and the action of the interpretation of the law would not be on a public domain.

We can ask ourselves: how far is this true? How does canon law work after the Council of Trent?

What are the advantages and disadvantages of this legal procedure of the Congregation?

The most clear disadvantage of the law being in the public domain is that lawyers and hearing processes in general are very expensive, specially the common lawyers. In this sense, the advantage of the Congregation is that it is relatively cheap, as the decisions are taken by administrators and a committee that works “indoors” as part of a larger structure. This is a big contrast to the legal procedure of the Church in the middle ages.

A particularity of this system is that it works with contentious and non-contentious cases. Sometimes contentious cases are even transformed into administrative ones, delegating them to local bishoprics but not necessarily opening a process within the dioceses. This fact makes contemporary canonists very interested in administrative matters, as canon law is used with an administrative method. The Congregation of the Council is a good example of this.

Regarding the Pope, in general throughout Church history he reacts more than he acts: he is usually responding to information that is coming to him and not sending it. Nevertheless, information also takes other directions. For example, collaboration between parties can be observed in the *visita ad limina* tradition, in which the Holy See creates a formulary with questions that bishops had to answer when they wrote their *relatio dioecesum*. In this case, the procedure coexists with the “reactive” system of the papacy.

It is also true that by the seventeenth century there is a display of communication from the Holy See to the world, to let people know what was happening in Rome. The internal reforms of the Curia were indeed expanded and communicated, and the papacy could be reactive because at a local level there was knowledge of the functioning of the System of Congregations, which was not a “unidirectional” one. This is why it is so important to study the cases also from the local level, to analyse overlapping decisions or disagreements between the parties, for example.

So is there continuity in the use of canon law?

It is possible to argue that the *ius commune* is alive in the legal procedures of the canon law. The reason is that within the cases resolved by the Congregation of the Council there are memorials with classic law text citations, which also reveals that the people who worked on these cases in the Roman curia were very well trained in Canon and civil law. In this point a legal continuity is found.

IV. Overall conclusions

Observing the exposed arguments it can be said that from one point of view the Council of Trent generated a completely different procedure on the interpretation of canon law, but from another, it follows a long lasting tradition. Through this second level of juridical literature the translation of the Tridentine canon law can proceed on a local level. The procedure of the Congregation of the Council represents a completely different way of working canon law, but at the same time embraces tradition.

A long tradition of mentalities of Christianity coming from the Middle Ages can be discovered and observed by applying the questionnaire elaborated by sociology and anthropology.

Unless historians have concrete categories in mind to study the cases, many interesting facts will just be unperceived. With clear questions and conceptual definition other layers of meaning can open.

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