



VERBUM E IUS

Predicazione e sistemi giuridici nell'Occidente medievale /
Preaching and legal Frameworks in the Middle Ages

a cura di

Laura Gaffuri e Rosa Maria Parrinello



Verbum e ius

**Predicazione e sistemi giuridici
nell'Occidente medievale**

**Preaching and legal Frameworks
in the Middle Ages**

a cura di

Laura Gaffuri e Rosa Maria Parrinello

**Firenze University Press
2018**

Law as the Sermon: The «*Sermones quadragesimales de legibus*» of Leonardo Mattei da Udine (c. 1399-1469)

by Stefan Visnjevac

The participation of popular preachers in the creation and enactment of statutes in Italian towns of the Late Middle Ages is a phenomenon which has received significant scholarly attention. Less well known is the influence of laws and law-making on the preachers' composition of their own sermons. This article explores one such example where the influence of laws is prominently in evidence – the *Sermones de legibus* Lenten cycle of sermons of the Dominican Leonardo Mattei da Udine (1399-1469). Leonardo explored numerous subjects within the framework of eight forms of law, from natural and divine, to ecclesiastical and secular. But in addition to shaping the structure of these sermons, laws also formed the main content, with frequent references to canon and Roman law. The article in particular focuses on a sermon on human laws, in which Leonardo expounded upon the obligations of those responsible for laws as well as those subject to them, and elaborated on the law's stance on forty issues (mirroring the forty fasting days of Lent). Leonardo upheld the superiority of canon law to secular law, but stressed that harmony among types of law would promote comparable social concord. By linking his advice and examples with laws, Leonardo imbued the sermons with authoritative voice and simultaneously grounded them in a practical, if basic, legal education for his audience – whether ruler, lawmaker, or common man.

Middle Ages; 15th Century; Law and Religion; Italy; Canon law; Justice; Lent; Leonardo Mattei from Udine; Preaching; Roman law; sermon; *ius*; Law; Thomas Aquinas.

1. Introduction

Preaching in Quattrocento Italy and its relation to law and legislative activity is, alongside participation in extraordinary events and peacemakings, among the most oft-examined aspects of the preacher's direct participation in fifteenth-century civic affairs. Yet, the actual sermons surrounding these developments, where they remain extant, are at times left untreated, set aside in favour of examining (through chronicles and civic administrative records, such as council minutes) a preacher's extra-curricular activity, their direct participation in the revision of statutes and the establishment of sumptuary

legislation¹. But the observance of laws and its attendant themes – justice, most especially, but also administrative structures, modes of governance, and the well-ordered community – were frequent and popular topics in the sermons of the mendicant preachers of the towns of Quattrocento Italy. These sermons, or at times diversions in sermons which were ostensibly focused on other themes, commonly took the form of exhortations towards equality in judgement and the establishment of fair and just law, in addition to the other side of the coin – obedience toward, respect for, and maintenance of the law. Such exhortations were therefore as much intended for the ears of the governors as the governed. The closely-related theme of justice was a frequently recurrent concern, concerning which judges and minor civic officials, as the purveyors of everyday justice, could expect to be targeted with calls to preserve its fair balance. Bernadette Paton's study of local preaching in late medieval Siena noted, for instance, that justice was among the most discussed topics of Sienese mendicant pastoral literature, a pattern which thus translated to the sermons².

Laws were framed as the instruments by which the populace could be guided, kept on the path of stable order and working toward the common good of the city. In this, the thought of the preachers strode similar lines to those of lay writers and jurists, with a main differentiation lying in the ultimate goal of the salvation of souls, rather than the sole temporal aim of a peaceful community. Human laws were aids which pushed men towards virtuous acts, and natural for men to be placed under. The establishment of good laws was often among the first factors named by preachers espousing on topics of good government. As one Dominican preacher opined, «Laws are [to men] just as bridles, harnesses, and fetters are for horses»³. Equally, contemporary governing authorities recognised and understood the potential utility of preaching in buttressing support for new legislation. Peter Howard, for instance, brought to light the example of Giovanni Giugni, captain of Castrocaro, who wrote to Florence in 1472 with a request to send to him Florentine preachers who could assist with the promotion of proposed new legislation⁴.

Thus, preachers were heavily concerned with issues of law and justice within their sermons, whether in setting out ideal guidelines or frameworks for their use, or in relation to an immediate practical context. But interaction between sermons and law could also be mirrored, with laws and legal

¹ For instance, Maria Giuseppina Muzzarelli intriguingly noted the reform and/or addition to sumptuary legislation which came about following the preaching of Giacomo della Marca and Bernardino da Feltre in the papal states, but perhaps could have delved more thoroughly into how the preachers set about achieving this through their sermons (Muzzarelli, *Pescatori di uomini*, pp. 246-248). Roberto Rusconi has also previously focused on reaction to preaching which preceded statutory reform as recorded in narrative sources, but lacks analysis of extant sermons (Rusconi, *Predicò in piazza*).

² Paton, *Preaching Friars and the Civic Ethos*, p. 135

³ Thomasinus de Ferrara, *Sermones quadragesimales*, p. 442.

⁴ Howard, *The Politics of Devotion*, p. 32.

frameworks employed to influence and affect the composition, structure and outcome of sermons. This aspect of the relationship – the sermon employed to direct opinion and makeup of laws, but also simultaneously itself being shaped by an understanding of legal theory and practice – has received less scholarly attention. Yet, it is ideally encapsulated in a fifteenth-century Lenten sermon cycle composed by the Dominican preacher Leonardo Mattei da Udine (c. 1399-1469).

2. *The «juridical preaching» of friar Leonardo*

Known as the *Sermones quadragesimales de legibus*, this cycle of forty-eight sermons survives in a tripartite manuscript copy. The first part is comprised of twenty-seven sermons (for the first twenty-five days of Lent, a sermon for the feast-day of the Annunciation, and another concerning lust, intended for the final Tuesday of Lent) and is currently held at the Biblioteca Comunale Teresiana in Mantua⁵. This part is of a greater quality to the latter two parts, and contains decorated initials, stylised marginalia, and miniature illustrations throughout. Parts two and three, held at the Biblioteca Capitolare in Udine, are smaller volumes and contain much denser text with no decoration, written in a different hand to that of the first⁶. The second part comprises the twenty-sixth to forty-fourth sermons (from the fourth Sunday of Lent to the final Wednesday), and also includes the Annunciation and final Tuesday sermons. The third and final part is the shortest, made up of the final four sermons for the Lenten period, including Easter Sunday. The manuscripts were completed in 1458⁷. The entire collection of sermons has also survived in numerous early printed editions. One such edition is the earliest book to have come from the press of Conrad Winters de Homborch in Cologne which can confidently be dated – a detail which may hold a clue to its status at the time⁸.

This distinctive cycle of sermons might be said to fall into the rough category of «juridical preaching» – a term coined by Darleen Pryds – due to both the content found within and their structural makeup⁹. Although the subjects of the sermons range widely (whilst continuing to cover the standard set of topics to be found in Lenten sermons, such as fasting and penitence, usury and avarice, and meditations on the life of Christ), nevertheless each sermon is divided up into the same main eight divisions. These are: Natural law; Di-

⁵ Mantova, *Biblioteca Comunale Teresiana*, ms 97.

⁶ Udine, *Biblioteca Capitolare*, mss 44 and 45 (hereafter ms 44 and ms 45).

⁷ Ms 45, explicit.

⁸ Leonardus Matthaedi de Utino, *Sermones Quadragesimales de legibus fratris Leonardi de Utino*. A copy of this edition is held at the British Library in London, IC. 4080. Conrad Winters worked for Ulrich Zel before setting up his own shop around 1472.

⁹ Pryds, *Monarchs, Lawyers, and Saints*, p. 142.

vine law; Prophetic law; Human law; Evangelical law; Apostolic law; Canon law, and finally, Ecclesiastical law. Whilst each sermon begins with a *thema* taken from Scripture, this is neither further expounded upon nor employed as the connecting framework of the sermon subject matter, as would be the case normally with thematic structure sermons. Instead, each topic is treated ostensibly according to the responses and interpretations concerning it found within what Leonardo categorises as belonging to each of the above forms of law. The decision to employ such a method over more standard thematic models is not elucidated, save for a partial explanation which is found in the explicit to a printed edition produced in Venice in 1473. This states that:

In this work, each sermon has eight most beautiful laws, with one conclusion being drawn from the lessons of the Gospel, the Epistles, and the prophets. Of these [eight laws], four are said to be drawn from the Old Testament – namely, natural, divine, prophetic, and human law. The other four laws are from the New Testament, and these are evangelical, apostolic, canon, and ecclesiastical law¹⁰.

In addition to a uniform divisional structure, each sermon also follows an identical narrative pattern. The preacher begins by describing how an individual attends Mass one day, where they hear a wonderful sermon on the very topic which is about to be expounded upon by Leonardo. The lesson of this fictional sermon is detailed in brief (and is always drawn from the conclusions of Thomist teachings), after which Leonardo describes the individual exiting the Church, feeling satisfied and enlightened, and eager to return home to share the lesson.

However, as it transpires, the demon Belial appears and accosts them on their journey. Belial proceeds to refute the conclusions of the sermon, and sows great doubts in the poor unfortunate. But further down the street the individual meets Moses, who illustrates to them that the conclusion which the sermon had come to was indeed the correct inference, demonstrating this through the evidence provided by the first four laws (natural, divine, prophetic, and human), and which serves as the first half of Leonardo's own sermon. At the midpoint, Leonardo breaks off briefly again from his own sermon in order to continue the narrative, which sees Moses passing the individual over to Thomas Aquinas. Aquinas also proves the initial conclusion by means of the evidence provided by the last four forms of law (evangelical, apostolic, canon, and ecclesiastical), and the individual's mind is finally at peace again.

Leonardo Mattei himself was a notable individual. A well-known and celebrated preacher in his own time, he is, conversely, virtually forgotten today in comparison with his Observant Franciscan contemporaries. Born in Udine, Leonardo studied and then taught theology at Bologna in the 1420s¹¹. He appears to have made his name as a preacher after being appointed to

¹⁰ Leonardus Matthaedi de Utino, *Sermones Quadragesimales*, explicit.

¹¹ Cinelli, *Mattei, Leonardo (Leonardo da Udine)*.

deliver sermons for Lent in Florence in 1434, and subsequently in Venice in 1436¹². This reputation was solidified during his attendance at the Council of Ferrara-Florence in 1438-9, where he delivered speeches before the pope refuting the resolutions of the Council of Basel¹³. After preaching in Venice again in 1442, Leonardo accepted an invitation three years later to preach for Lent and for feast-days in his hometown of Udine¹⁴. He was to remain in the Friuli region for much of the rest of his career, regularly involving himself in public life, whether through promoting the case for sainthood for a local cult of the thirteenth-century tertiary Benvenuta Boiani, or as provincial prior for the San Domenico territory from 1457-65, or in his later role as the town theologian – as well as, of course, continuing to preach¹⁵.

As is apparent, Leonardo was no canonist, but rather a theologian, most familiar with the works of Thomas Aquinas (as will be made apparent below). Yet, there was much common ground between the two fields in the fifteenth century, and between that of theologians and jurists, not least in the shared technical expertise which was required in order to grasp the intricacies of their fields. Although this does not explain how Leonardo came to, for instance, what appears a robust knowledge of Roman law, it does help to rationalise how the Dominican felt able to compose a work couched in legal terminology such as is the *sermones de legibus*.

It is uncertain where the *Sermones de legibus* fit into Leonardo's chronology. They may have been composed some years earlier than the 1458 date of the manuscript copy, possibly in the period 1434-1446, during which Leonardo was at his most active as a preacher. Sharon Jansen has stated that the sermons originate from Leonardo's Lenten preaching in Florence in 1434, but provides no evidence (and, indeed, the sermons which survive from this period as the *Sermones floridi de dominicis* bear little resemblance)¹⁶. Given factors such as the sermons' considerable length and the near-absence of references to contemporary events, it could also be argued that they were intended as a model sermon collection, or, at the very least, that its textual form was significantly revised and expanded from any originally preached material. Indeed, asides such as a detailed enumeration of the laws of Lycurgus of Sparta in the sermon on human law (which is explored further below), speak to a modicum of self-indulgence, and a keenness to show off the breadth of knowledge rather

¹² Some of these sermons remain extant as *Sermones floridi*. Mattei delivered his Florentine sermons at Santa Maria Novella, and in Venice at SS. Giovanni e Paolo. Udine, Biblioteca Civica, ms Joppi 193, *Agostino Bruni «Memorie del suo convento»*, p. 7.

¹³ Padova, Biblioteca Universitaria, ms 2063, ff. 45r-47v, *Responsio contra conclusiones Concilii Basiliensis*.

¹⁴ Udine, Biblioteca Civica, *Annales Civitatis Utini*, 28, f. 118.

¹⁵ See Cinelli, *Mattei, Leonardo*. In 1463, Udine's governing council requested that Mattei compose a treatise in response to the newly-revived controversy concerning the divine nature of the blood spilled by Christ on the Cross (San Daniele del Friuli, Biblioteca Guarneriana, ms 96, *De divinitate sanguinis Christi in triduo mortis effusi*).

¹⁶ *Anne of France*, p. 30.

than to keep the attentions of a live audience. In any event, the future intended use of these as model sermons is evidenced with certainty in some early printed editions, which contain subject indices for the application of material within the sermons for other Sundays throughout the year outside of Lent¹⁷.

Leonardo's employment of forms of law as divisions is not unknown in sermons by other preachers, although their use as an overall framing device for the cycle, in addition to the majority of content being depicted as of that origin, is more novel. Leonardo's structure builds upon the foundations of the patristic formula of *ante legem, sub lege, sub gratia* which appears in the works of Augustine, including in one of his sermons¹⁸. The actual employment of a sequence of forms of laws has also been employed in other sermons – in particular, in the early medieval Irish homiletic tradition – but normally as three to five types of law as opposed to the more expansive eight which Leonardo employs¹⁹. Further, this was most often employed as a method of enumerating salvation history (for instance, Abel and Noah portrayed as messengers of natural law, Moses bringing divine law, and apostolic law delivered by Christ and his disciples)²⁰. By contrast, Leonardo's intention was not to present a version of salvation history, save as a by-product of the very rough chronological structure of authorities employed within the sermons. This aspect is perhaps most noticeable in the bipartite division between old and new law, as represented by the figures of Moses and Thomas Aquinas. Such a division itself has an extremely long tradition, and in sermons is frequently addressed with reference to Matthew 5:17 (which Leonardo also cites on numerous occasions)²¹. Aquinas himself explored the subject at length, of which it is doubtless that Leonardo would have been aware²². Yet, even here Leonardo diverges in part from what is customarily considered as old and new law in sermons. The scriptural interpretation of old and new law is expanded to include, for instance, classical *exempla* and Roman law under the umbrella of old law.

Leonardo's conclusions concerning the various subjects he expounds upon in the *Sermones de legibus* are largely typical, and owe a heavy indebtedness to Thomist thought. His originality, therefore, does not lie so much in the outcome, but in the process of thought, construction and presentation. Authorities, *exempla*, and logical reasoning are all transformed into implicit forms of law by the preacher, a definition which arguably gave each citation and pronouncement added strength of validity. This technique is at its most remarkable in the sermon composed for the final Wednesday of Lent (and which is also the final sermon before Leonardo switches from debating in-

¹⁷ For instance, Leonardus Matthaeni de Utino, *Sermones quadragesimales*.

¹⁸ Augustinus, *De doctrina christiana*, II,xvi,25; Augustinus, *Sermo* 110,1.

¹⁹ Martin, Hall, *The Enumeration of Laws Motif*, pp. 48-49, 55, 65.

²⁰ *Ibidem*, p. 56.

²¹ «Do not imagine that I have come to abolish the Law of the Prophets. I have come not to abolish them, but to complete them». See also, Taylor, *Soldiers of Christ*, p. 87.

²² Reilly Jr., *Saint Thomas on Law*, pp. 172-173.

dividual topics to a complete focus on the deeds of Christ in the buildup to Easter Sunday). The subject of this sermon is human law itself²³.

Human law is the only one of Leonardo's eight divisions to also receive its own sermon. As with the other sermons in the cycle, it begins with a scriptural *thema*, «a man will meet you», which is not alluded to again²⁴. Leonardo then describes how a, «simple, faithful and devoted soul» hears a sermon on whether law binds the conscience to its observance. The conclusion that just and fair laws do indeed bind the conscience to their observance is taken directly from the discussion of human law in Thomas Aquinas' *Summa theologiae*²⁵. Leonardo then has the demon Belial produce arguments against this conclusion, which are comprised of Aquinas' proposed objections on the topic²⁶. The soul, worried and full of doubts, goes to consult «legis doctores», and soon meets Moses, and afterwards Thomas Aquinas, who each promise to show the original conclusion to be true by means of the evidence of four forms of law²⁷.

The following divisions which make up the main body of the sermon vividly illustrate Leonardo's classification and mode of procedure. Each division is comprised to a large extent of only a certain, related body of sources; and each division is employed to deliver advice on a standalone topic ostensibly related to the overarching theme of human law. Thus, the division on Natural law examines how good laws should be made, and the relationship between ruler and law. The content, meanwhile, is comprised mostly of pre-Christian classical authorities and *exempla*, themselves divided into natural reasoning, moral philosophers (for instance, Cicero, Suetonius, Aristotle, but also Augustine, Boethius, and Isidore of Seville are quoted by the preacher), poets (for example, Lucan, Ovid, Terence, and Juvenal are found here), and examples from ancient history (such as a recounting of the story of Alexander the Great and Diomedes the Pirate, a favourite of medieval moralists)²⁸. The evidence of Divine law, on the other hand, is demonstrated through *exempla* from the first books of the Old Testament, and advises on the correct administration of justice²⁹. Prophetic law is concerned with proving that justice is more important for good governance than prudence, and employs to a large extent the Books of Amos, Jeremiah, and Isaiah to this end³⁰. The Human law division takes as its subject the interests of judges, and what virtues they ought to hold. Here, the *Corpus iuris civilis*, mainly the Codex and the Digest, are the overwhelming sources of authority³¹.

²³ Ms 44, ff. 232r-251v.

²⁴ Lc 22,10.

²⁵ Ms 44, f. 232r.

²⁶ *Ibidem*, f. 232r; Thomas Aquinas, *Summa theologiae*, I^oII^{ae}, 96,3.

²⁷ Ms 44, ff. 232v, 240v.

²⁸ *Ibidem*, ff. 232v-237r.

²⁹ *Ibidem*, f. 237r-v.

³⁰ *Ibidem*, ff. 237v-238v.

³¹ *Ibidem*, ff. 238v-240v.

3. Leonardo and Thomas Aquinas

Evangelical law contains the longest sub-division or diversion in the sermon. After showing how the testimony of the four Gospels reveals Christ's approval of law binding the conscience, the majority of the division instead focuses on elucidating the duties of the good prince, and in what manner he would go about fulfilling them. Varied authorities are employed here, but each point ends with a corroboration found in the Pauline epistles³². The short Apostolic law division returns briefly back to the primary question of the sermon – again employing the Epistles as evidence – in addition to discussing whether justice or friendship is of greater benefit to the good order of the state. The penultimate division, Canonical law, addresses the issue of human law itself, and what factors are necessary to make up a good law. Here Leonardo turns to Gratian's *Decretum*, with some additions from the decretals of Gregory IX³³. Finally, the short division entitled Ecclesiastical law revisits the original subject of whether law binds the conscience to its obedience, with reference to the works of Fathers of the Church, such as Gregory the Great, Jerome, Ambrose, and Augustine³⁴.

Although each division is a comparatively distinct entity, four main themes emerge – and which are themselves summed up in Leonardo's *conclusio* to the sermon. The *conclusio* has Thomas Aquinas declare to the individual:

O simple soul, you can now understand how the conscience is bound to the observance of human laws, if they are not contrary to divine law or justice. Yet, lest Belial should boast of his arguments, I will teach you how to respond to them³⁵.

There follows four points extracted from Aquinas' chapters on human law from the *Summa*, which summarise the main lessons of the sermon – namely, that the force of law depends on the extent of its justice; man is not subject to those laws which are inconsistent with divine law; a ruler is not coerced by law in the same manner as other men, but is subject to it by his own will; and finally, man is not bound to follow unjust and oppressive laws³⁶.

The first conclusion is principally found within the midpoint of the sermon. The division on prophetic law, through biblical *exempla*, serves essentially as a warning of the breakdown of society and a strong rebuke to those who consider acting unjustly or enacting unjust laws. Interestingly, this is the only point of the sermon where Leonardo indulges in extended castigation of wrongdoers – primarily, the sermon is composed of advice on how to act virtuously, rather than being an admonition of those who do not. The division

³² *Ibidem*, ff. 240v-246r.

³³ *Ibidem*, ff. 246v-247r.

³⁴ *Ibidem*, f. 247r-v.

³⁵ *Ibidem*, f. 251v.

³⁶ *Ibidem*. See Thomas Aquinas, *Summa theologiae*, I^aII^{ae}, 95,2; 96,5; 96,4.

on human law most strongly focuses on the theme of justice, and does so by advising on the correct actions of judges and minor civic officials – a favourite subject target of Quattrocento preachers (both for a general belief in their corruption, and likely because the preacher risked no repercussions, such as he might as a result of the castigation of higher officials)³⁷. This topic also contains one of the rare instances (up until the final section of the sermon) of Leonardo referring to contemporary custom and events. For instance, the friar states that

the judge ought not to adjudicate with bias; whence, in order to avoid bias and personal acceptance which can be caused by close relationship or friendships, some cities of Italy carry out the commendable practice of appointing a foreign judge, which is in concord with civil law, [as in the] Digest, *de assessoribus*, law [beginning] *an eadem*³⁸.

In another example, wherein Leonardo describes how laws are to be observed at time of war as well as during peacetime, he casts a pragmatic but dark picture of the contemporary socio-political situation:

Arms are linked together with laws, because neither laws without arms nor the reverse can govern well. But alas! nowadays is increased that which Seneca in the *tragedia* says – prosperous and successful crime goes by the name of virtue; good men obey the bad, might is right, and fear oppresses the law³⁹.

Leonardo does not, however, address judges and the general populace concerning justice. The observance of equity and justice by rulers and governors is likewise one of the four main conclusions in the division on ecclesiastical law, which is concerned with good governance. Leonardo here observes that

The ruler governs well if he will observe equity and justice (...) the ruler ought to have this virtue before his eyes, or otherwise be useless to the state, because just as rule was not acquired without might, so it is not retained without justice,

before then enumerating the methods by which justice might be maintained, such as punishing the impious and those who would offer bribes⁴⁰.

The second and fourth conclusions, which specify that human law ought to follow divine mandate and cannot be oppressive or burdensome, are indeed points which are elaborated upon and emphasised early on by the preacher. Considering this within the Natural law division, Leonardo declares via Aquinas and Isidore of Seville that

[human law] fosters religion, inasmuch as it is proportionate to the divine law; that it be helpful to discipline, inasmuch as it is appropriate to the natural law; and that it further the commonweal, inasmuch as it is proportionate to the utility of mankind⁴¹.

³⁷ Paton, *Preaching Friars and the Civic Ethos*, p. 135.

³⁸ Ms 44, f. 239r.

³⁹ *Ibidem*, f. 239v.

⁴⁰ *Ibidem*, f. 244v.

⁴¹ *Ibidem*, f. 233v.

Addressing the observance of laws of common utility in the very next section, Leonardo offers Aquinas' example of the besieged city whose gates are kept closed by law, but should be nonetheless opened if it transpires that to do so would be for the good of the public welfare⁴². Further into the sermon, the Prophetic law division addresses lawmakers, with a stark image of a state destroyed by its oppressive laws being preceded by the scriptural quotation,

woe to them that make wicked laws, and when they write, write injustice: to oppress the poor in judgement and do violence to the cause of the humble of my people⁴³.

The Canonical law division is wholly given over to the espousal of commendable laws which are consistent with divine law. To this end, Leonardo suggests that secular laws look to canon law for guidance, declaring that

secular laws ought to follow canons (...) secular laws should not disdain to imitate sacred canons, because law that comes out of the sacred scriptures, papal decretals, and good morals ought to be of value⁴⁴.

What can be discerned from Leonardo's approach within this sermon is that the preacher sought to definitively cover these conclusions on human law for three separate sections of society – those ostensibly not subject to the law, that is the ruler/governing body; those who made the law (the lawmakers, judges and legislators); and those who lived under the law, the general populace. Only the third conclusion – that rulers are subject to the laws of their own free will – somewhat understandably moves away from this comprehensive pattern.

However, even in this Leonardo makes certain to at least briefly mention that judges and subjects were obligated to correct those rulers who had strayed from attention to the law. Whilst human law might be determined *by* princes and governors, Leonardo perfectly subscribes to Thomist thought by demonstrating that the system of law is not only *of* the princes and governors⁴⁵. The other predominant theme which flows through the sermon – that of man and law working to and for each other's benefit – itself originates from Aquinas' promotion of the common good as a tool for the attainment of virtue and salvation⁴⁶.

The obvious devotion to Aquinas and Thomist teachings illustrated by this cycle of sermons is not unusual for this period. Thomist thought experienced a revival in the fifteenth century, particularly among – though by no means exclusive to – the more reformist Dominican houses (of which Leonardo, a conventual, was admittedly not a part)⁴⁷. Neither was Leonardo the only

⁴² *Ibidem*, ff. 233v-234r; Thomas Aquinas, *Summa theologiae*, I^oII^{ae}, 96,6.

⁴³ *Ibidem*, f. 238r; Is 10,1-2.

⁴⁴ *Ibidem*, f. 246v.

⁴⁵ Bagnulo, *Il concetto di diritto naturale in San Tommaso d'Aquino*, p. 125.

⁴⁶ See Walter, Bubacz, *The Common Good in Thomas Aquinas' Politics*.

⁴⁷ See Tavuzzi, *Renaissance Inquisitors*, p. 45.

Dominican preacher to employ Aquinas as both a narrative device and as the content fulcrum. For instance, the near-contemporary Dominican preacher Tommaso dai Liuti, in his Lenten sermons dated around 1460, similarly employed the works of Aquinas to give immediate response to the questions set by his sermons, and which would then be elaborated upon throughout the main body. This work also employs a narrative of an inquisitive soul, to whose questions, «the Lord replies through Saint Thomas»⁴⁸. Leonardo's admiration of, and more importantly, his knowledge of, Aquinas and his works is made further apparent in a 1446 sermon delivered in Udine for the saint's feast-day; and by a detailed subject index for the *Summa* composed by Leonardo, presumably in the first place for his own use⁴⁹. It has been suggested that this revival in the use of Aquinas' works amongst preachers followed greater political stability in some of the city-states of Italy from the middle of the century. The generally more positive outlook on man found in Aquinas (in comparison to, for instance, Augustine), may have resonated with the preachers of a more hopeful period⁵⁰.

4. *Church and civil law*

The sermon on human law contains one significant departure, in terms of both structure and content, in comparison with the other sermons of the cycle. Following the end of the sermon proper, but before the final *conclusio*, there exists a lengthy addition. Leonardo declares that «we sin in forty ways, and therefore we fast for forty days [during Lent]»⁵¹. The friar then goes on to expand in brief on each of these forty ways of “sinning”. There appear to be a number of intentions behind this section. Most noticeably, for a large section of these points, Leonardo cites a piece of civil law which appears to render the sin licit. For instance, the fourth point, entitled «occidendo», states:

For according to imperial law it is permitted for a man to kill his wife's lover, having caught them in adultery, unless it is a person who ought to be respected. Digest *de adulteriis*, the law [beginning] *grachus*⁵².

Leonardo normally follows this by explaining why the deed in question should not be committed even if there is some legal ground in human law which renders it permissible. The preacher most often cites canon law (usually from the *Liber extra* of Gregory IX) in his justification, though he also at times resorts to scripture or even invoking simple reasoning and the con-

⁴⁸ A 1466 copy of these sermons is now at Firenze, Biblioteca Nazionale, ms D. 6. 1460.

⁴⁹ Leonardus Matthaei de Utino, *Sermones aurei de sanctis fratris Leonardi de Utino*, cc. 279-294; Padova, Biblioteca Universitaria, ms 2063, ff. 1-44v.

⁵⁰ Paton, *Preaching Friars and the Civic Ethos*, pp. 95-99.

⁵¹ Ms 44, ff. 247v.

⁵² *Ibidem*, f. 248r; *Dig.*, 48,5 concerns adultery, but the Gracchian law is actually found at *Cod.*, 9,9,4.

science. Two examples of this method are below. First, the second point, titled «rapiendo»:

For according to imperial laws, a raped girl cannot enter into a marriage with her rapist, as in Cod. *de raptu virginum*, law [beginning] *unica*, and the same was formerly true concerning ancient canon law. But today, the raped can if they wish enter into marriage with her rapist, as [according to] Extra. *de raptoribus*, chapter [beginning] *accedens*⁵³.

And, by contrast, the nineteenth, «permittendo», which cites scripture:

For according to imperial laws usury is permitted. Codex *de usuris*, but according to God and conscience it is completely prohibited: Psalms, «he did not give his money to usury», and Luke 6, «lend without expecting anything back»⁵⁴.

This pattern over the majority of the list has the cumulative effect of demonstrating the superiority of divine, church, and canon law to that of secular law. This is quite apparent in the thirteenth point, «mercando»:

For according to imperial laws, deceit is permitted between sellers and buyers, because human law permits many impunities, but punishes only when there is a great excess between the buying price and the selling price (...) but according to divine law it is deemed unlawful if in buying and selling equality and just price is not observed, and the person who has lost more [than this] ought to be compensated, [as deemed in] Extra. *de donationibus*, chapter [beginning] *per tuas*⁵⁵.

Also visible within several of Leonardo's forty points is the motivation to justify the division of church from state, and to invalidate the subordination of religious and church property to civil law. For instance, the twenty-third point, «exigendo», declares that:

Those who make laws and statutes which bind not only laymen, but also ecclesiastics, do so for their own ambitions and grant [these laws] for their own provision. If they are singular persons, they are excommunicated for that reason; and if the college or university or town or city should make such statutes, they are placed under an interdict for that same reason. Nor can they be absolved unless they make satisfaction and full restitution⁵⁶.

While the subsequent point, «statuendo», emphasises the point in the strongest language found within this section:

If laws should be established against the mandates of the church, for example ones which permit simony, or alienate the estate of the church and other things like these, then these laws are invalid (...) On the contrary, the makers and preservers [of such laws] sin mortally, [as shown by] Extra. *de simonia* chapter [beginning] *cum in ecclesia* and chapter [beginning] *non satis*, and if such laws are instituted, then they are damned, and their heirs are held to full restitution⁵⁷.

⁵³ Ms 44, f. 248r; Cod., 9,13,2; *Liber Extra*, 5,17,6-7.

⁵⁴ Ms 44, f. 249r; Ps 15,5; Lc 6,35.

⁵⁵ Ms 44, f. 248v; *Liber Extra*, 3,24,5.

⁵⁶ Ms 44, f. 249v.

⁵⁷ *Ibidem*; *Liber Extra*, 5,3,8

Yet, demonstrating the superiority of a church law to which civil law should aspire and reflect, and simultaneously the necessity of a separate legal status for the church, do not appear to be Leonardo's sole intentions. In several instances, Leonardo puts forth examples from both forms of law on a particular issue, but without espousing any judgement openly over which is to be preferred. In these cases, citations from canon law appear to support or expand upon, rather than invalidate, citations from Roman law. For instance, the twenty-first, «nesciend»:

Generally speaking, all people of the commune are held to know and to observe the statutes and constitutions of their commune. Inst. *de iura naturali*, points 1 and 2. Yet, the advancing opinion is that the ignorant are excused from [knowing] the statutes of the Ordinaries, because they are not bound to these (...). As it is shown in Extra. *de constitutionibus*, chapter [beginning] *ut animarum*⁵⁸.

This has the further consequence of rendering questionable Leonardo's initial classification of these as "sins" made licit by human law. In effect, they instead become short pieces of practical advice on particular legal issues, rather than solely a tract on the superiority of one form of law over another. Indeed, Leonardo at one point even declares that, «when something is expressed in law, civil and canon should not be contrary, so that it seems re-enforced».⁵⁹ This view of the list as also providing a set of practical advice is further strengthened by the decision to categorise together points on related themes. Thus, points 1-3 concern personal relationships (degrees of consanguinity, rape, and sex outside of marriage); 4-7 concerns issues of marriage; 8-11 concerns children and inheritance; 12-15 is trade; 16-18 concerns evil thoughts (for example, divination and magery); 19 deals with usury; 20-22 deal with statute-related issues; 23-26 concerns lawmaking; 27 is concerned with the duties of civic officials; 28 with hunting and trapping; 29-34 are concerned with justice (the largest group, again providing an indicator of the significance of this particular topic to late medieval preaching); 35-38 concerns money (payments, wages and pledges, theft, dowries); 39 concerns suicide; and 40 idolatry. In effect, underneath the anticipated moralising veneer and in parallel with aims personal to a religious, there exists within this section a beneficial, if rough and hardly thorough, guide to issues which concerned daily life under the laws.

Although Leonardo never references local or customary secular law (except in abstract allusions to statutes and customs never much developed upon), instead relying upon the Roman law of the *ius commune*, these still served a purpose thanks to the commonality of reference to Roman law amongst disparate places and social levels. Humanistic jurisprudence, still yet to break new ground in Italy with regards to the usage of the *ius commune*

⁵⁸ Ms 44, f. 249r; *Inst.*, 1,2; *Liber Extra*, 1,2,1, and also 1,31,13.

⁵⁹ Ms 44, f. 249r.

in this period, had no impact on Leonardo's view of the significance and relevance of these laws⁶⁰. For Leonardo, Roman and canon law were not simply to be applied in exceptional circumstances, but continued to be highly-relevant guides to public and private life, as demonstrated throughout each sermon in the *de legibus* cycle. Through these, the preacher was, for instance, able to demonstrate for his audience the limits of certain laws and then, usually through comparison with church mandate, ask his audience to live to a standard even higher than that set for them by the boundaries of human law.

Although their possible origin as preached material is unknown, the *sermones de legibus* of Leonardo Mattei did achieve a widespread posthumous popularity as printed books. This is, for instance, aptly demonstrated by the numerous references to this work in the famous *Lessons for My Daughter* by the late fifteenth-century French regent, Anne of France⁶¹. By producing practical and, importantly, authoritative examples made all the more commanding by their denotation as law, Leonardo here set simple and achievable everyday goals for his audience which could be followed by the layman – be they commoner, lawmaker, or ruler – and who was pointed towards a virtuous path and, ultimately, salvation under the law.

⁶⁰ Bellomo, *The Common Legal Past of Europe*, pp. 205, 209.

⁶¹ See *Anne of France*.

Works cited

- Anne of France, *Lessons for my Daughter*, ed. S.L. Jansen, Woodbridge 2004.
- Aurelius Augustinus, *De doctrina christiana*, ed. J. Martin, Turnhout 1962 (Corpus Christianorum. Series Latina, 32).
- Aurelius Augustinus, *Sermones ad populum (Patrologia Latina, 38)*.
- R. Bagnulo, *Il concetto di diritto naturale in San Tommaso d'Aquino*, Milano 1983.
- M. Bellomo, *The Common Legal Past of Europe, 1000-1800*, ed. L.G. Cochrane, Washington D.C. 1995.
- L. Cinelli, *Mattei, Leonardo (Leonardo da Udine)*, in *Dizionario biografico degli Italiani*, 72, Roma 2009, pp. 163-166.
- P. Howard, *The Politics of Devotion: Preaching, Piety and Public Life in Renaissance Florence*, in *Cultures of Devotion: Studies in Medieval and Renaissance Religion*, eds. P. Howard, C. Troup, Clayton 2000, pp. 29-42.
- Leonardus Matthahei de Utino, *Sermones Quadragesimales de legibus fratris Leonardi d'Utino*, Venezia: Franciscus Renner, Nicolaus de Frankfordia, 1473. An extant edition is housed at the British Library, London (IB. 19833).
- Leonardus Matthahei de Utino, *Sermones aurei de sanctis fratris Leonardi de Utino sacre theologie doctore ordinis predicatorum*, Augsburg: Druckerei des Klosters St. Ulrich und Afra, 1474.
- Leonardus Matthahei de Utino, *Sermones Quadragesimales de legibus fratris Leonardi de Utino*, Köln: apud Conrad Winters, de Homborch, 1475.
- Leonardus Matthahei de Utino, *Sermones quadragesimales de legibus fratris Leonardi de Utino*, Ulm: apud Johann Gainer, 1478.
- L.T. Martin, T.N. Hall, *The Enumeration of Laws Motif in the Middle English Homily An Bispel*, in *Models of Holiness in Medieval Sermons*, eds. B. Mayne Kienzle et al., Louvain-la-Neuve 1996, pp. 47-65.
- M.G. Muzzarelli, *Pescatori di uomini. Predicatori e piazze alla fine del Medioevo*, Bologna 2005.
- B. Paton, *Preaching Friars and the Civic Ethos: Siena 1380-1480*, London 1992.
- D. Pryds, *Monarchs, Lawyers, and Saints: Juridical Preaching on Holiness*, in *Models of Holiness in Medieval Sermons*, éd. B. Mayne Kienzle, Louvain-la-Neuve 1996, pp. 141-156.
- J.P. Reilly Jr., *Saint Thomas on Law*, in *The Gilson Lectures on Thomas Aquinas*, Toronto 2008, pp. 163-178.
- R. Rusconi, *Predicò in piazza: politica e predicazione nell'Umbria del '400*, in *Signorie in Umbria tra Medioevo e Rinascimento. L'esperienza dei Trinci*, Foligno 1989, pp. 113-141.
- M. Tavuzzi, *Renaissance Inquisitors: Dominican Inquisitors and Inquisitorial Districts in Northern Italy, 1474-1527*, Leiden 2007.
- L. Taylor, *Soldiers of Christ: Preaching in Late Medieval and Reformation France*, Oxford 1992.
- Thomasinus de Ferraria, *Sermones quadragesimales*, Köln: apud Johann Koelhoff, der Ältere, 1474.
- E.F. Walter, B.S. Bubacz, *The Common Good in Thomas Aquinas' Politics*, in *The Medieval Tradition of Natural Law*, ed. H.J. Johnson, Kalamazoo (MI) 1987, pp. 201-211.

Stefan Visnjevac
University of Roehampton, London
stefan.visnjevac@roehampton.ac.uk