

Punishing Mortal Sins : The Hussite Debates at the Council of Basel and their Impact on Late Medieval Sacramentology

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1. The Four Prague Articles

It is a commonplace that the famous four Prague Articles were crucial for the identity of the Hussite movement and for the fragile consensus among the various factions inside Bohemia. In terms of content, the articles defined the most important doctrines and symbols, which in themselves were protests against certain practices of the larger Church: the taking of the Eucharist under both species also for lay people (*communio sub utraque*), the unhampered preaching of the Word of God, the expropriation of religious orders, mendicants in particular, and the public punishment of mortal sins. In terms of propaganda, the Prague articles met their purpose perfectly: Avoiding sophisticated theological distinctions, they appealed to moderate, yet plausible reform expectations, responded to common experiences, defined clear action areas, and last but not least, were easy to memorize and recognize. The Prague Articles, however, also helped the opponents to mount the counter attack.

The Prague articles formed the basis of the theological disputes between Hussites and Catholics from 1421 until 1433, when a Hussite delegation was invited to defend their opinions at the Council of Basel. If we try to structure the years between 1420 and 1436 and to classify the Anti-Hussite literature and theological debates in these years, I would like to suggest three periods, which produced different kinds of controversial literature:¹

¹ There will be other papers tomorrow (e.g. Pavel Soukup and Pawel Kras) that examine the Anti-hussite polemic, so I can be brief.

1.) 1424 – 1430: the time of the first anti-hussite treatises and disputations, carried out either by members of the University of Prague itself, or by theologians from the neighbouring universities: Vienna, Cracow, Cologne. In Austria for instance, one of the most successful and disseminated texts during that period was Peter of Pulkau's treatise *Contra articulos Hussitarum* (1424), with 8 mss. copies in the ÖNB alone. The strategy in these early controversies was to highlight the exaggerations of the Prague reformers and to defend the Catholic practices. The discussions focused pretty much on the immediate objective of the articles.² This first period of the controversy, however, is also shaped by the struggles within the Hussite parties, mostly between the "conservative" group in Prague and the radicals in Tabor. They, too, held a number of theological debates that paralleled the discussions simultaneously held with the Catholics. A closer study of the structural and doctrinal parallels between these two conversations would be interesting.

2.) The next stage would be the debates at the Council of Basel, Jan-March 1433, where 4 speakers from the Hussites and 4 delegates of the Council discussed the four articles. It was by far the most visible, universal and impressive debate of the Prague Articles ever. It was also the best documented debate and the one which had the greatest dissemination. Manuscripts of the monumental speeches of this meeting can be found in multiple copies in any major manuscript library across Europe. In terms of doctrinal content, length and acidity the debate in Basel outpaced the earlier meetings by far. Furthermore, this debate revealed a greater awareness for the differing ecclesiologies on both sides. Reading the speeches, one may realize that the narrow issue of each article served only as an occasion to point out the greater context and the implications of the controversy.

2 Besides Peter of Pulkau many more names could be mentioned here. Toward the end of the decade, the German Dominican Henry Kalteisen entered the stage. For a scheduled meeting between Catholic and Hussite theologians in Nuremberg 1430, he prepared a number of texts. At this occasion, he complained about the many opportunities the Hussites were granted to publicly present their doctrines: 1. Council of Constance: Hus and Jerome of Prague. – 2. During the siege of Prague in July 1421 "in quo simul nostri doctores catholici cum litteratis Hussitarum se audiverunt. Et pro tunc tamen 4 proposuerunt articulos Hussite, quos communiter per mundum nunc mittent" – 2. In Brno 1423/24 "in presencia doctorum universitatis Wienensis. – 4. "In Ungaria coram Rege Romanorum presentibus Procoppio et literatis Hussitarum, et magistris diversarum facultatum theologie, iuris canonici et arcium de universitatibus Parisiensis et Wiennensis. – 5. In Nuremberga, cum Hussite peterent proclamare coram populo suam sectam cum circiter mille equestribus per plurimum mensa spacia... (This last meeting, scheduled for 1430, was the one, where Kalteisen was nominated as a speaker. (Koblenz, LHA 701/183, fol. 49r.). – Cf. Francis of Retz', OP reflections on the punishment of mortal sins, which seem to be his contribution to the debate between the Hussites and the University of Vienna in 1424..... (Ms. Munich; Text...)

3.) A third period in anti-hussite efforts spans the years between 1433 and 1436. In these years after the solemn discussions meetings the controversy unfolded mostly within Catholic circles, the council of Basel in particular. A number of theologians at the council worried about the progress in the negotiations with the Bohemians. In their eyes, no concessions should be made. They continued to polemize against Hussite positions, also because they missed any signs of contrition or consideration on part of the Hussites. For mendicants like Henry Kalteisen and John of Torquemada, the unresolved issue of confiscated religious property gave cause for additional suspicion. On the other hand, members of the conciliar delegation that travelled to Prague to fix the compacts were understandably more open for Bohemian wishes.

2. The Discussion of the Second Article in Basel : Nicholas of Pelhrimov against Gilles Charlier.

Among the Prague Articles, the most important one at any time – regardless of their varying numeration in the earliest stage³ – was the request to receive the Lord's body and blood as bread and wine. The eventual solution found in the compacts of Prague and Iglau mirrored exactly that priority of the first article: The Council of Basel agreed to recognize the use of the cup, while the remaining three articles had to be abandoned. They requested a) the free, unhampered preaching of the Word of God; b) the need for clergy and religious to give up their possessions, and finally c) the obligation to punish all mortal sins, be they public or private. This last article was owed to the pressure of the Taborites, who wanted to see their radical reform measures prominently represented in the 4 Prague Articles. Due to the importance of the question on the communion *sub utraque*, the Eucharistic doctrines in the Hussite controversy had been examined in greater detail already. For this paper, therefore, I have chosen to skip the question of the chalice and to look at the discussion of the the punishment of public sins instead.

The article was presented at the Council of Basel by the most famous theologian of the Taborites, their "bishop" or leader Nicholas of Pelhrimov (Nicolaus Biskupec), one of the most prolific writers of the Hussite movement. The speaker was selected on purpose, since this article contained most of the Taborites' reform ideas. Biskupec's opponent was Gilles Charlier, professor at the University of Paris and one of the senior

³ An early example of this: Kalteisen, (Koblenz LHA, 701/183, fol. 292va.)

theological experts in Basel. The entire debate is well documented since we possess not only printed texts of all the speeches, replies and counter-replies, but also two narrative sources that described the atmosphere and reactions during the discussions: One is Juan de Segovia's report in his monumental chronic of the Basel synod, the other is the *Liber diurnus* by Peter Zatec, a member of the Hussite delegation in Basel and a Taborite himself. The observations and comments in both chronics could not be more distant. Zatec's account is definitely more partisan, vitriolic and entertaining than Segovia's, who kept the attitude of the distanced observer and who preferred the results and the doctrinal issues over emotions and personal sympathies. But also Segovia could not hide his distrust for the heretics, who rarely missed an opportunity to provoke their hosts and to challenge the council's authority. As interesting as it is to follow the surrounding circumstance of the discussion, the protests, provocations, insinuations, emotions, we have to postpone it to focus on the theological argumentation of the debators, also because the resumés in the narrative sources skipped the more nuanced theological explanations for the more "catchy" themes. In the first round, Pelhrimov talked for 2 days, Charlier's reply lasted 4 days. For the second round Pelhrimov took three days, Charlier got the same amount of time.

The article itself runs as follows: "In Christian communities mortal sins, both public and - if reasonably possible - also private ones as well as other irregularities against God's commandment are to be duly confined, corrected and chastized and as far as possible expelled by the faithful both lay people and clerics according to the precepts of divine law." For Pelhrimov, this article was not just a vision of moral reform, but a justification of concrete action: Although he defined "mortal sin" in a wide sense⁴, his examples and explanations clearly hinted at two target groups: prostitutes and clergy. Whores, adulterers and fornicators posed an immediate threat for the Christian community - at Tabor and elsewhere. Mortal sin, therefore, had first of all a sexual connotation.

The focus on prostitution in the article on mortal sins was obvious from early on. Anti-Hussite theologians answered to such radical moralism by qualifying prostitution as a *minor malum* compared to the expected social upheaval if it were eliminated completely. (Example of the short text by Francis of Retz OP, probably from 1424, differentiating mortal sins according to the damage they do to the republic. If a mortal sin, such as whoring, does not destroy human society, it shall be punished in the sacramental fore, but not by public law.⁵ With regard to the whores he quoted Augustine's

4 "voluntaria transgressio legis divinae et coelestium inoebedientia mandatorum". – Bartos, *Orationes*, 3.

5 Franz von Retz, Clm 18294, fol. 260 ra.

famous dictum: "Auffer meretrices de rebus mundanis et turbaveris omnia de libidinibus."⁶

An even greater scandal for Nicholas Pelhrimov than fornication was clergy that did not live up to its vocation. Repeatedly his argumentation merged into harsh accusations against priests who ignored celibacy and who used the priestly office to increase their income. The sins of the clergy infuriated Nicholas to such an extent that about one half of his entire speech castigated bad practices of the clergy: "Maxime inter peccata hominum arguenda sunt peccata praelatorum et sacerdotum et specialiter symonia."ⁱ Criticism of simony became a pretext for rebuking large parts of the hierarchical, sacramental and fiscal system of the Church. Pope, cardinals and prelates in particular were put under general suspicion. Apart from the clergy, Nicholas attacked indulgences, pilgrimages, the veneration of saints and relics, etc. Not without a certain delight, he provided details of unfitting fashion, salacious behaviour and permissive customs. In his eyes, all these abominable practices amount to idolatry and therefore are rightly deemed mortal sins. At the end, Nicholas' Philippic veered away quite a bit from the theological and religious concern of the article on mortal sins – seemingly I have to say, because he did elaborate one major implication of the article quite prominently, as we will see in a second. The conciliar audience of Nicholas, however, was absolutely not amused about his speech. It turned into a frontal attack on the church and common religious practice. What angered the Fathers in Basel most was Nicholas' praise of Jan Hus and Jerome of Prague who, according to him, were unjustly put to death in Constance. Such criticism of Constance, however, defied the authority and infallibility of the universal council and therefore was considered as seriously lacking respect.

Apart from the description of the sinful state of the Church that provided the context for the article on the punishment of mortal sins, Nicholas also discussed also the authority for the punishment of such mortal sins. Although he knew about the traditional distinctions between spiritual and secular powers, and between hortative and coercive power he was very unspecific about it – a weakness that did not escape his opponent. Instead, Nicholas tried hard to justify the active part of the laity in punishing mortal sins: Such punishing is the duty not only of prelates, but also of all the faithful in general.ⁱⁱ Again, Nicholas remained vague about the different roles in penalizing, a vagueness that abetted and encouraged the laity in taking action. The laity

6 "Augustino libro 2, de ordine.

became crucial in disciplining obstinate clergy. If lay people were unable to judge clergy the Church would lose its rightful governance. It seems that two motivations were behind these efforts of empowering the laity to intervene against ecclesiastics: one was the fight against church privileges in terms of property and legal immunity, the other was a consequence of a new ecclesiology, with strong communitarian elements, moral rigorism and apocalyptic tones. It was the ideal of an *ecclesia primitiva*, which coincided with the *ecclesia praedestinatorum*, and which served as a model for the Taborites: poor, holy, committed, and freed from any gentile pomp and worldly entanglement.ⁱⁱⁱ This ecclesiology also had little concern for the sacramental aspect in Church reform because holiness of life and the correction of society by force were more fitting instruments of salvation than the communication of grace through the sacraments. Consequently, Nicholas ignored confession or penance completely as a means to remove or heal mortal sins. Instead, he dismissed the sacraments in the same breath with indulgences as opportunities for simony.

Gilles Charlier, the spokesman for the Council, had an easy task to unmask Pelhrimov's argumentative shortcomings. After reminding his opponent of some basic definitions and theological distinctions, he gave him a lesson in law theory. In fact, Nicholas had ignored the validity of public law completely, subordinating any civil law under the biblical commandments. Charlier, on the other hand, distinguished carefully between divine commandment and sanctions of felonies according to civil law. One has no direct bearing on the other. If and when mortal sins have to be punished – e.g. in case of robbery, murder, bodily harm etc., three preconditions are required: a) lawful jurisdiction (only superiors can punish their subordinates). – b) factual evidence (any punishment requires a court hearing). – c) enduring peace (if a punishment results in schism or disturbance of the church, punishments have to be ruled out.)

After these general considerations, Charlier dedicated the second part of his speech to discussing the authority of those who have coercive power. Not surprisingly, this part was an apology for the monopoly of ecclesiastical authority in the hands of the clergy and a criticism of Pelhrimov's ideas of lay involvement and vigilantism. Members of the clergy can be sentenced only by their superiors, never by lay people, lacking ecclesiastical authority. No matter how bad his behaviour may be, the moral quality of a superior does never

affect his jurisdictional authority, unless he denies the faith and becomes a heretic. This notwithstanding, lay people can criticize their spiritual superiors by fraternal correction at any time. It has to happen with due discretion, reverence, and love, and never publicly, to prevent public upheaval or disobedience.

Since Pelhrimov insisted so much on the obligation and the possibility for the laity to intervene against corrupt clergy, Charlier rejected these ideas with the same energy. The difference between both can be studied nicely in looking at how both interpreted the key biblical passage for fraternal correction: Mt 18:15-17.

If your brother sins against you, go and blame him between your two selves. If he listens to you you have won back your brother. If he does not listen, take one or two others along with you, because the evidence of two or three witnesses is required to sustain the charge. But if he refuses to listen to these, report it to the church (*dic ecclesiae*) and if he refuses to listen to the church treat him like a gentile or a tax collector.

For Pelhrimov this passage on fraternal correction was pivotal. He called it the *lex generalissima*, and it served as a key to unfold the ecclesiological creed of the Taborite. He abstained from giving a detailed exegesis of the passage because the significance of the text seemed so evident to him. He pointed out though that by these words the Lord imparted authority upon each member of the church to engage in fraternal correction, hence giving correctional authority to all of them. It was a sufficient instruction, obliging the faithful to rebuke the sinners around them. They would incur a deadly sin themselves if they abstained from living that rule and taking responsibility for the conversion of the sinners. Fraternal correction is an expression of love and the Lord's commandment to love one another has the same intention as his order of fraternal correction. Both aim at a healing solidarity within the mystical body.

Gilles Charlier could not subscribe to this understanding of Mt 18:15-17.^{iv} For him, fraternal correction was not a pretext for undifferentiated criticism of church hierarchy and infringement of the liberties of the Church by secular authorities, but one stage, the first, in a precise order of spiritual punishment. Accordingly the French theologian interpreted the text as an agenda of how to proceed with a notorious sinner. Fraternal correction was the start not the end of a chain of different actions that could eventually result in excommunication. For the traditional Catholic understanding, the famous phrase *Dic ecclesiae!* referred to the spiritual authority of a prelate as the representative of the church.^v

After having sufficiently refuted Pelhrimov's claim for the laity to take disciplinary actions against prelates, Charlier developed a theme that was closely connected to the foundations of conciliar theory and to the authoritative self-understanding of the general council: the problem of accountability of a deficient superior, and – in last consequence – of the pope himself (*praelatus/papa malus*). At this point, Charlier could not resist the temptation to rehearse some of the core beliefs of the conciliarists gathered in Basel. Not only did he mention the council as the court of appeals if a pope fails in faith or morals, but also did he recommend the infallible council as the safest path to general reform. The radicals among the Hussite reformers (*omnis puritatis amator*) should trust the reform efforts of the council and support it.^{vi}

Earlier, I argued that Hussite ecclesiology and reform theology showed little respect and interest for the sacraments as means of reform and divinization. How about the Catholic response from the representative of the Council of Basel? First of all, he was busy to refute the countless arguments of Pelhrimov and to pin down the article to its strict meaning. Beyond that he did defend sacraments and the notion of sacramentality, but the context and the perspective reveal that his greater concern was about the Church rather than about the sacraments. The inner link was the notion of the authority of the Church, which seemed really at stake for Charlier. This nexus became evident where he defended the practice of indulgences against the accusations of his opponent. This was the occasion for Charlier to introduce sacramental terminology and to clarify the notion of "absolution", "guilt" and "punishment". With regard to the sacrament of penance he stressed that ultimately it is God alone who forgives the sins, not the priest. The minister, who holds the power of the keys, is just the instrument for the divine action and he prepares the penitent for the reception of sacramental grace. Charlier went on to explain the nature of indulgences as an extension of the power of keys given to St. Peter in Mt 16. This power to bind and loose is neither restricted to the pope as highest representative of the church nor to the priest and prelates who receive it for the forgiveness of sins in the sacrament. It coincides with the power of the Church, which she also uses to adjust her salvific mission according to historic circumstances. By the same power the Church was able to decide and develop doctrinal aspects, changed liturgy and rites, and even adapted her government and law.^{vii} By this observation Charlier had two things in mind, two

messages for his opponent: The first was a criticism of the Hussite insistence on the primitive church as the ideal and norm for the contemporary Church. The *ecclesia primitiva* is not an independent authority to aspire, since the Church is the same back then and now. The second was a recommendation of the Church as the only safe and reliable institution of salvation. The notion of an infallible church, which alone has divine authority was the fundamental answer to the Bohemian reformers who claimed a more authentic understanding of the Church than the rest of the world.

- i Bartos, *Orationes*, 19.
- ii ("non solum per rectores, sed etiam per omnes generaliter Christi fideles")
- iii "Ymo illud quod in corpore Christo mystico consputum abiecissent christiani, iam hodie honestas et facesia iudicatur. Et ita multa similia reperiret, qui fideliter primitivam, predestinatam ecclesiam in maxima contrarietate ad presentem dispersionem gentilem in christianis compararet." Bartos, *Orationes*, 31.
- iv Charlier structured the entire second part of his speech as a correct understanding of Mt 18:15-17, providing ample documentation on this text in patristic and scholastic literature before accentuating his own application of the text to the problem at hand.. Bartos, *Orationes*, 894-906, especially 899-900.
- v (Charlier hastened to add that *Dic ecclesiae!* could also refer to the general council.)
- vi If councils, for whatever reasons cannot gather and are neglected, the only remedy against the vices of people and clergy is the preaching of the Word of God, particularly to the clergy. If such preachers reprimand the vices of the clergy the laity should not be present, in order to not incite their anger. Lay people may attend such sermons only if the reprehensions are proffered moderately and in a tempered way. Only if there is reason to believe that the people is lead into error by the corrupt conduct of the clergy – for instance, if they get to "believe" that the vices of the clergy are not vices any more – the preachers coming to their rescue have to teach the true doctrine by using frank language. A remarkable concession to the reformers and an even more remarkable alternative to conciliar reform!
- vii cf. Bartos, *Orationes*, 923-.925.