

UN PONTE TRA IL MEDITERRANEO E IL NORD EUROPA: LA LOMBARDIA NEL PRIMO MILLENNIO

A CURA DI GIULIANA ALBINI E LAURA MECELLA



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Legal culture across the Alps during the post-Carolingian period

di Michele Baitieri

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1. *Introduction: Lombardy and the revival of legal culture in the eleventh century*

Talking about legal culture in early medieval Italy almost inevitably brings to mind eleventh-century Lombardy, and especially Pavia¹. This city had been the capital of the Lombard Kingdom since the sixth century and retained its status during Carolingian and Ottonian ruling over the *Regnum Italiae*². Furthermore, Pavia maintained a prominent role for the history of legal culture in the Peninsula throughout that period. Aside from it being the centre from which Lombard and – to a lesser extent – Carolingian Kings promulgated their laws, Pavia also hosted the *Palatium*, seat to the higher court in the land, on which depended the organization of royal justice in the Kingdom of Italy and its administration through the activity of *missi*, judges and notaries³. While the existence of an actual juridical

¹ In what follows Lombardy is used in a broad geographical sense, meaning the territories that belonged to the *Regnum Italiae* and were located north of the Apennine Range.

² MAJOCCHI, *Pavia città regia* and ID., *Sviluppo e affermazione di una capitale altomedievale*.

³ On the organization and administration of justice in the Kingdom of Italy between eighth and eleventh century see at least, PADOA SCHIOPPA, *Aspetti della giustizia*; ID., *Giudici e giustizia*; PETRUCCI - ROMEO, *Scrivere in iudicio*; BOUGARD, *La justice dans le royaume d'Italie aux IX^e-X^e siècles*; ID., *La justice dans le royaume d'Italie de la fin du VIII^e siècle au début du XI^e siècle*; NICOLAJ, *Formulari e nuovo formalismo*; WICKHAM, *Justice in the Kingdom of Italy*; KELLER - AST, *Ostensio cartae*; CASTAGNETTI, *Note e documenti*; MACLEAN, *Legislation and politics*; ANSANI, *I giudici palatini, le carte, le leggi and VOCINO - WEST, On the life and continence of judges*.

school in Pavia before and after the turn of the first millennium is still much debated, what appears to be quite certain is that during these centuries the *Palatium* remained a symbolic point of reference for the education and training of the legal personnel mentioned before⁴. Nevertheless, it was only at the dawn of the early Middle Ages that Pavia achieved a pivotal place in the history of legal culture in medieval Europe. As stressed, in particular, by Charles Radding, it was in Lombardy that during the course of the eleventh century the revival of juridical culture in the Latin West had its origins⁵. Scholarship has emphasised the importance of one text: the *Expositio ad Librum Papiensem*⁶. The *Expositio* is a commentary to the *Liber Papiensis* or *Liber legis Langobardorum*, a legal compilation likely produced in Pavia by the first decades of the eleventh century which contains – arranged chronologically – the laws promulgated for the Kingdom of Italy by Lombard, Carolingian and Saxon rulers⁷. Like the *Liber*, also the *Expositio* was likely created in Pavia, though in the last quarter of the eleventh century⁸. This shows how Lombardy remained a vital centre of legal culture even after the destruction of the royal palace at Pavia in 1024. However, what is striking about the *Expositio* is not only that it makes explicit the juridical value of single norms, but that it endeavours to discuss their meaning by considering other norms of the *Liber* that deal with the same topic, hence handling the collection as a single normative text⁹. Furthermore, this commentary reveals an all but superficial knowledge of Roman law, which was often cited in those instances where Lombard law was lacking or was not sufficiently clear¹⁰. Even though such citations were not an exposition of Roman law for its own sake, the underlying principle according to which Roman law could be considered subsidiary to Lombard law first put forward in the *Expositio* was of extraordinary importance, as without it the developments of legal culture later achieved by the school of Bologna through the revival of Roman jurisprudence would not have been possible¹¹. To para-

⁴ ANSANI, *I giudici palatini, le carte, le leggi*, pp. 171-173.

⁵ RADDING, *Le origini della giurisprudenza*; MASSETTO, *Gli studi di diritto* and PADOA SCHIOPPA, *La scuola di Pavia*.

⁶ The standard edition of this work, which had survived only in one medieval manuscript, is still the one published in 1868, *Liber legis Langobardorum Papiensis dictus*, pp. 290-585.

⁷ RADDING, *Legal Theory*, p. 378 and ID., *Le origini della giurisprudenza*, pp. 99-106.

⁸ *Ibidem*, pp. 162-173.

⁹ PADOA SCHIOPPA, *La scuola di Pavia*, pp. 156-159.

¹⁰ DIURNI, *L'Expositio ad Librum Papiensem*, pp. 60-98 and 220-272; RADDING - CIARALLI, *The Corpus*, pp. 80-109 and PADOA SCHIOPPA, *La scuola di Pavia*, pp. 160-162.

¹¹ RADDING, *Legal Theory*, p. 380 and PADOA SCHIOPPA, *Il ruolo della cultura giuridica*, p. 253.

phrase Antonio Padoa Schioppa, when considering the fact that there had been no match to the subtle exegetical methods, interpretative controversies and engagement with Roman Law witnessed by the *Expositio* in the history of western jurisprudence during the previous five centuries, it is clear that eleventh-century Lombardy can be seen as the cradle of medieval jurisprudence¹².

2. *Legal culture across the Alps in the Ottonian period*

Taking a step back and focusing on the second half of the tenth century, shows how Lombardy played a central role in the history of legal culture prior to the turn of the first millennium. Scholarship has recently come to acknowledge that the reciprocal influences, both cultural and political, between the two sides of Alps are a key feature of the Ottonian period¹³. The seminal work of Wolfgang Huschner has in a sense marked the beginning of this historiographical trend. As a matter of fact, in his monumental study of the Ottonian diplomas Huschner has not only definitely overcome the idea of imperial chancery envisioned by Sickel and Bresslau, who saw it as a centralised and clearly structured office on the model of modern German bureaucratic offices, but he has also stressed how textual and visual features of these legal documents reveal the intense cultural and political exchanges between north and south of the Alps at the time¹⁴.

While the appraisal of Ottonian diplomas carried out by Huschner does not deal specifically with Lombardy, there is nonetheless evidence suggesting that this region played an important role in the development of these mutual exchanges¹⁵. Amongst the various examples which it is possible to focus on, one is particularly telling. As recent scholarship has pointed out, during the period 962-972 textual and visual innovations of the Ottonian diplomas were generally brought about by the initiative, and on the models of the documentary practice, of Italian scribes¹⁶. In those years, the scribe who introduced major textual as well as visual innovations in the Ottonian diplomas was the one labelled as 'Italian B' by the editors of the *Monumenta Germaniae Historica*. After having unveiled

¹² ID., *La scuola di Pavia*, pp. 152 and 159.

¹³ On this see ROACH, *The Ottonians*, which also provide an insightful discussion of recent German and Italian scholarship on the subject.

¹⁴ HUSCHNER, *Transalpine Kommunikation* and ID., *L'idea della cancelleria imperiale*.

¹⁵ For an overview of the political and cultural exchanges between the two side of the Alps that is possible to appreciate through the study of Ottonian diplomas see ID., *Influenze reciproche*.

¹⁶ *Ibidem*, p. 43.

the identity of 'Italian B' as Hubert, bishop of Parma and Arch-chancellor of Otto I, Huschner has stressed the various visual and textual innovations that this scribe had introduced in the production of Ottonian diplomas¹⁷. One of the most significant of such innovations regards the preamble or arenga of the diplomas of Otto I. As once again pointed out by Huschner, it was Hubert of Parma who in 968 introduced within the preambles statements relating to the direct divine origins of the Ottonian imperial dignity; a very sensitive issue at the time involving a delicate interplay amongst Ottonians, Byzantium and the Papacy¹⁸. Moreover, in his preambles Hubert stressed that the foremost duty of the Emperor was to be a Christian ruler, and as such devoted to the care of the Church and attentive towards the request of its ministers, because only by behaving in this manner would he obtain earthly and heavenly rewards, but also ensure the stability of his realm¹⁹. The textual innovations to the preambles of the Ottonian diplomas so formulated by Hubert of Parma had an immediate success and, what is more, they were also taken as a model north of the Alps by 'Willigis B', the main scribe of imperial diplomas under Otto II and future Archbishop of Mainz²⁰.

Furthermore, working in the Ottonian chancery was an effective springboard for the career of various northern Italian churchmen whose legal abilities seem to have been particularly appreciated by the Saxon rulers²¹. Apart from Hubert of Parma, this had been the case for at least two other Lombard clergymen: Ambrose and Leo. The former was a Milanese priest who served as Chancellor for the Ottonians in the same years as Hubert, though for a shorter period (966-971), and was rewarded for his services in the imperial chancery with the bishopric of Bergamo (971-975)²². The latter, Leo of Vercelli (998-1026), became a prominent figure during the reigns of Otto III and his successors. On the earlier life of this

¹⁷ HUSCHNER, *Transalpine Kommunikation*, pp. 102-112 and ID., *Influenze reciproche*, pp. 43-47. On Hubert see also, PAULER, *Das Regnum Italiae*, pp. 102-109; ALBERTONI, *Il potere del vescovo*; GHIGNOLI, *Uberto, vescovo di Parma* and TOMEI, *Coordinamento e dispersione*.

¹⁸ HUSCHNER, *Influenze reciproche*, pp. 45-46. It is worth noticing that for the previous six decades no ruler from north of the Alps had issued a diploma – except the ones based on Carolingian *Vorurkunden* – that included similar statements regarding the origin of their kingship, SCHIEFFER, *Mediator cleri*, p. 352.

¹⁹ HUSCHNER, *Influenze reciproche*, p. 46. On the concept of *stabilitas regni* in the Ottonian period see MANGANARO, *Stabilitas regni*.

²⁰ HUSCHNER, *Transalpine Kommunikation*, p. 321 and ID., *Influenze reciproche*, p. 47.

²¹ On this, and more generally on the recruitment of northern Italian clergymen by the Ottonians see VOCINO, *Migrant Masters*, pp. 243-249.

²² HUSCHNER, *Transalpine Kommunikation*, pp. 644-649 and 743-745; ID., *Influenze reciproche*, p. 43 and DE ANGELIS, *Poteri cittadini*, pp. 146-147.

clergyman very little is known, but palaeographical studies of his hand have convincingly argued in favour of his northern Italian origins²³. The first information about Leo to have survived dates back to 996, when he can be seen at the imperial court in Mainz acting as Chaplain of Otto III²⁴. Due to his services at court, Leo obtained the bishopric of Vercelli in 998 or early 999; the moment from which Leo took on a more active role in the imperial chancery as the title of *logotheta* used to describe his functions in the recording of coeval court hearings seems to indicate²⁵. Alongside Gerbert of Aurillac, future Pope Sylvester II, Leo was then one of the creators of the ambitious ideological project of the *renovatio imperii Romanorum*²⁶. Leo remained one of the strongest supporters of the Ottonian dynasty in Italy during the difficult transition of power that followed the untimely death of Otto III in 1002, when the Bishop of Vercelli took the side of Henry II against Arduin of Ivrea²⁷. Leo maintained his allegiance to Henry II till the end, and in doing so he likely drafted various diplomas of the Saxon ruler as he had already done during the reign of his predecessor Otto III²⁸.

Therefore, the study of sovereign diplomas issued during the Ottonian period has allowed us to highlight how Lombard intellectuals played a pivotal role in the history of legal culture across the Alps prior to the turn of the first millennium. Following the careers of these men and their involvement in the imperial chancery shows that their legal skills were particularly appreciated by the Saxon rulers and significantly contributed to the intense cultural exchanges at play between the two sides of the Alps. The innovations that Lombard clergymen brought about in the drafting of sovereign diplomas also enhanced their central part in the ideological development of the imperial dignity throughout the Ottonian period. From the idea of direct divine derivation of the imperial office introduced by Hubert of Parma to the concept of *renovatio imperii Romanorum*

²³ GAVINELLI, *Leone di Vercelli*, p. 242.

²⁴ DORMEIER, *Un vescovo*, pp. 45-46.

²⁵ BEDINA, *Leone*, pp. 478-479. On the career and political action of Leo see DORMEIER, *Un vescovo*.

²⁶ WITT, *The Two Latin Cultures*, pp. 96-100. On the *renovatio imperii Romanorum* see KELLER, *Identità romana*.

²⁷ LUCIONI, *Re Arduino*, especially pp. 48-84.

²⁸ PANERO, *Una signoria vescovile*, pp. 54-97. While the constant support of Leo to the Ottonian dynasty is certain, the involvement of the bishop in the chancery of Henry II relies on his identification with the scribe labelled as 'Heribert E' by the editors of the *Monumenta Germaniae Historica*. This identification advanced by Huschner has been cautiously put into doubt by Hoffmann: HUSCHNER, *Transalpine Kommunikation*, pp. 267-270 on which see the considerations of HOFFMANN, *Notare, Kanzler und Bischöfe*, pp. 467-468.

masterminded by Leo of Vercelli, Lombardy thoroughly participated in the shaping of legal culture across the Alps thanks to its clergymen and their legal as well as political skills.

3. Lombardy and canon law in post-Carolingian times: the Anselmo dedicata

Lombardy played a prominent role for the history of legal culture across the Alps even before the Ottonian period. It is argued here, that this centrality can be best appreciated by looking at one canonical collection produced there during the post-Carolingian period: the *Collectio Anselmo dedicata*. This massive collection of Church Law is articulated in twelve parts and contains about 2000 canons²⁹. In its preface, the anonymous compiler informs the reader that his work is dedicated to Archbishop Anselm, of whose flock he is the least little lamb³⁰. The Anselm addressed by the anonymous compiler is unanimously identified with the Archbishop of Milan, Anselm II (882-896) who became leader of the Ambrosian Church soon after the end of a severe clash between his predecessor and Pope John VIII; a clash caused by the conflicting views entertained by Milan and Rome regarding which candidate to sponsor for the royal succession to the Kingdom of Italy in the aftermath of the death of Louis II³¹. The manuscript tradition of the *Anselmo dedicata* indicates a canonical collection produced in northern Italy during the last quarter of the ninth century³². While its exact place of origin is still debated, what seems certain is that it was composed in Lombardy³³. The collection still lacks a critical edition, but thanks to Jean-Claude Besse scholars have been able to rely on the text of preface and first part of the *Anselmo dedicata* since

²⁹ On the *Collectio Anselmo dedicata* see FUHRMANN, *Fragmente*; KÉRY, *Canonical Collections*, pp. 124-128; SCARAVELLI, *La collezione canonica*; FOWLER-MAGERL, *Clavis canonum*, pp. 70-74 and ZECHIEL-ECKES, *Quellenkritische Anmerkungen*.

³⁰ An English translation of this preface can be found in SOMERVILLE - BRASINGTON, *Prefaces to Canon Law Books*, pp. 81-83.

³¹ On what little is known about Anselm II see BERTOLINI, *Anselmo*; DELOGU, *Vescovi, conti e sovrani*, pp. 39-40; AMBROSIONI, *Gli arcivescovi*, pp. 111-114; PICARD, *Le souvenir des évêques*, pp. 95-97 and BALZARETTI, *The Lands of Saint Ambrose*, pp. 218-221. For the clash between the Archbishop of Milan, Anspert and John VIII see GORLA, *L'arcivescovo Ansperto* and ARNOLD, *Johannes VIII*, pp. 186-192. On this delicate political phase in general see MACLEAN, *'After his death'*.

³² SCARAVELLI, *La collezione canonica*, p. 33.

³³ For the different locations (Milan, Pavia, Bobbio, Novara, Vercelli and Brescia) that scholarship has indicated as possible places of origin of the *Anselmo dedicata* see *ibidem*, pp. 46-48 and ZECHIEL-ECKES, *Quellenkritische Anmerkungen*, pp. 64-65.

1959³⁴. Moreover, in 1960 the same Besse has provided the first description of the material gathered in this canonical collection with a full list of the canons therein contained³⁵. Subsequent scholarship has rightly pointed out the limits of these works, as both partial edition and list of canons published by Besse were based only on one of the surviving manuscripts of the *Anselmo dedicata*³⁶. Nevertheless, they have represented a first step towards reaching a better understanding of the structure and sources of this collection.

The twelve parts in which the *Anselmo dedicata* is articulated provide a sort of blueprint for Christian society following an orderly and precise hierarchy of topics: 1) Apostolic See, patriarchs, archbishops and metropolitans; 2) Bishops and chorbishops; 3) Synods and ecclesiastical trials; 4) Priests and deacons; 5) Lower clergy; 6) Monks and nuns; 7) The laity; 8) Norms of the christian faith; 9) Baptism; 10) Churches, worship, oblations and tithes; 11) Liturgical celebrations; 12) Heretics, schismatics, Jews and pagans³⁷. The legal material contained in each of these parts is systematically arranged in three sections. The first section gathers canons of previous Church councils and decretals taken from *Collectio Dionysio-Hadriana*, *Collectio Novariensis* and Pseudo-Isidorian decretals; the second is made of extracts from the Register of Gregory the Great, while the third and last section contains secular laws that, with the exception of one capitulary of Lothar I, were drawn from the *Lex Romana canonice compta*³⁸. Amongst these sources, the Pseudo-Isidorian decretals or False Decretals are the most used in the *Anselmo dedicata* as over 500 of the 2000 canons of our collection were taken from a shorter form of the False Decretals known as A2 recension³⁹. At the centre of the Pseudo-Isidorian decretals, which contains forged pronouncements attributed by the compiler to the earliest popes and church councils, is the defence of bishops' rights and autonomy⁴⁰. It is worth noticing, that the Pseudo-Isidorian

³⁴ BESSE, *Collectionis Anselmo dedicata*.

³⁵ ID., *Histoire des textes*.

³⁶ On the reception of the works of Besse by subsequent scholarship see SCARAVELLI, *La collezione canonica*, pp. 33-34 note 2.

³⁷ FOWLER-MAGERL, *Clavis canonum*, p. 70.

³⁸ SCARAVELLI, *La collezione canonica*, pp. 42-46. For the Roman law used in the *Anselmo dedicata* see RUSSO, *Tradizione manoscritta*, pp. 27-70 and FIORI, *Roman Law Sources*, especially pp. 8-12.

³⁹ ZECHIEL-ECKES, *Quellenkritische Anmerkungen*, p. 59. The standard edition of the Pseudo-Isidorian decretals is still *Decretales Pseudo-Isidorianae*.

⁴⁰ On the Pseudo-Isidorian decretals see at least, FUHRMANN, *Einfluß und Verbreitung*; ZECHIEL-ECKES, *Fälschung; Fälschung als Mittel der Politik*; KNIBBS, *Ebo of Reims* and HARDER, *Pseudo-Isidorus*.

decretals composed in the diocese of Reims during the 830s or 840s, started to circulate in Italy only during the last decades of the ninth century⁴¹. Therefore, the *Anselmo dedicata* represents one of the earliest examples of the reception and use of the False Decretals south of the Alps; thus enhancing the role of Lombardy, land of origin of the *Anselmo dedicata*, in the exchange of legal culture across the Alps. Furthermore, the discussion of structure and sources of the *Anselmo dedicata* shows how this canonical collection demonstrates the vitality of canon law in the decades around the year 900, as the anonymous compiler was not only able to systematically re-arrange, but also to re-shape a vast amount of norms inherited from the previous centuries⁴². Innovative organisation and breadth of material gathered in the *Anselmo dedicata*, reveal what a formidable instrument this collection was in the hands of bishops. As a matter of fact, while providing these prelates with a clear map of the ideal Christian society, the *Anselmo dedicata* also emphasised the pivotal role played by bishops in it, and in laying out the legal material necessary to defend the autonomy of the episcopal office contributed to the conscious representation of the authority of his holders as separate but complementary actors to the King in ruling⁴³.

What has been said about the aims of the *Anselmo dedicata* is better exemplified by the use that two well-known bishops, Atto of Vercelli and Rather of Verona, made of it during the post-Carolingian period. Preserved in the library of the cathedral chapter of Vercelli is one of the extant complete copies of the *Anselmo dedicata*⁴⁴. Thanks to a dedication in verses to Saint Eusebius present at the end of this *codex* (fol. 265v), we know that it was Atto of Vercelli himself who donated this manuscript to the chapter library of Vercelli⁴⁵. Amongst the works of Atto is an episcopal statue articulated in 100 chapters aimed to address and guide the religious life in his diocese⁴⁶. The studies of Suzanne Wemple and Rudolf Pokorny have shown that about 40 of the 100 chapters of the *Capitulare* were taken

⁴¹ SCARAVELLI, *La collezione canonica*, p. 42.

⁴² HARTMANN, *Kirche und Kirchenrecht*, especially pp. 143-149.

⁴³ The best work on Carolingian and post-Carolingian episcopate to date is PATZOLD, *Episcopos*. On the episcopal office in post-Carolingian Italy see LEYSER, *Episcopal Office* and WASSENAAR, *Bishops, canon law*.

⁴⁴ Vercelli, Biblioteca Capitolare, Ms. XV.

⁴⁵ GAVINELLI, *Leone di Vercelli*, pp. 240-241.

⁴⁶ The *Capitulare* is published in *Atto von Vercelli*. On the life and works of Atto of Vercelli see WEMPLE, *Atto of Vercelli*, pp. 8-47; RICCI, *Atto Verzellensis Episcopus*; VIGNODELLI, *Il filo a piombo*; ID., *Politics, Prophecy and Satire* and ID., *I palinsesti*. Aside from the *Capitulare*, the only other work of Atto for which we have a critical edition is ATTONIS VERCELLENSIS Polipticum quod appellatur Perpendicularum.

by Atto directly from his copy of the *Anselmo dedicata*, which bears *nota* marks in correspondence of the canons that the bishop used in his episcopal statute⁴⁷. The high number of canons taken by Atto from the *Anselmo dedicata* clearly indicates how this canonical collection was indeed a very useful tool designed to map out the ideal Christian society, as provided bishops like Atto with the possibility to easily access a vast amount of norms when endeavouring to lay down their own vision of orderly society through episcopal statutes. Turning our attention to Rather of Verona, will allow us to further appreciate what a formidable tool in the hands of bishops the *Anselmo dedicata* really was. Aside from having been bishop of Verona (from which he was ousted three times in 934, 948 and 968), Rather was also for a short period of time bishop of his hometown Liège⁴⁸. His appointment to the bishopric of Liège happened in September 953 when, in a bid to reassert his control over the unruly Lotharingia, Otto I appointed his brother Brun as *dux* of the region and Archbishop of Cologne⁴⁹. Brun then installed his former tutor, Rather, at Liège and his consecration took place on 25 September. However, less than two years later Brun had to face a violent revolt of prominent magnates of his duchy and was unable to stop them ousting Rather from Liège in April 955⁵⁰. While this was clearly a political move aimed to hinder Brun's support in Lotharingia, the rebels justified their actions against Rather by claiming that his appointment to Liège was not valid since – at least in theory – he was still bishop of Verona and the transfer of a bishop from one see to another was forbidden by canon law⁵¹. As Edward Roberts has recently pointed out, in his defence of the validity of the transfer from Verona to Liège, Rather appealed to the authority of the False Decretals which playing on the flexible concepts of *utilitas* and *necessitas* introduced by Gregory the Great, allowed episcopal transfers given that the impulse to move did not come from the bishop himself⁵². Moreover, Rather countered the ousting from Liège in his *Phrenesis* once again relying on the False Decretals which lay down the virtual impossibility of deposing a

⁴⁷ WEMPLE, *The Canonical Resources*, pp. 337-347; EAD., *Atto of Vercelli*, pp. 211-214 and *Atto von Vercelli*, pp. 251-258.

⁴⁸ On the life and works of Rather see at least ROSSI, *Raterio* and VALTORTA, *Ratherius Veronensis*.

⁴⁹ MAYR-HARTING, *Church and Cosmos*, pp. 22-24.

⁵⁰ *Ibidem*, pp. 31-32.

⁵¹ The transfer of bishops from one see to another had been forbidden since the council of Nicaea in 325, but debate about its validity strongly resurfaced during the late Carolingian period. For the translation of bishops in Late Antiquity and early Middle Ages see SCHOLZ, *Transmigration und Translation*.

⁵² ROBERTS, *Bishops on the Move*, pp. 126-130.

bishop⁵³. Even though Rather's defence was unable to restore him to the bishopric of Liège, it is interesting to reflect on where the bishop found the legal material necessary to defend his transfer and stress the autonomy of his office. Through a study of the False Decretals used by Rather in his works, Roberts has convincingly argued that the bishop took this material from the *Anselmo dedicata* and likely helped its dissemination north of the Alps⁵⁴. The examples of Atto and Rather have illustrated function and uses of the *Anselmo dedicata*, but in order to better appreciate how this canonical collection contributed to the exchanges of legal culture across the Alps we should now turn to its manuscript tradition.

After the destruction in 1944 of a manuscript held at Metz, only three medieval *codices* containing the *Anselmo dedicata* in its entirety are still extant⁵⁵. The first of these manuscripts is the *codex* donated by Atto to the library chapter of Vercelli which was produced in northern Italy either at the end of the ninth or beginning of the tenth century⁵⁶. The second manuscript is held in the library chapter of Modena; certainly from northern Italy (perhaps Ravenna) it dates back to the first half of the tenth century⁵⁷. The last complete copy, today in Paris, was produced in Verdun at the orders of Bishop Haimo and finished on 23 March 1009 as evidenced by the colophon written at the end of this *codex*⁵⁸. Almost complete is the copy of the *Anselmo dedicata* at Bamberg, which lacks only of a section of the eleventh part of the collection⁵⁹. This manuscript was produced in northern Italy, possibly in Milan, either at the end of the tenth or beginning of the eleventh century⁶⁰. Alongside these manuscripts, there are three further incomplete medieval *codices* containing large portions of the *Anselmo dedicata*. Two of these are in

⁵³ *Ibidem*, p. 129. The passage in question is in RATHERII VERONENSIS Phrenesis, p. 207.

⁵⁴ ROBERTS, *Bishops on the Move*, especially pp. 132-133. The use of the False Decretals can be also seen in other late ninth-century collections compiled in northern Italy and aimed to defend validity of episcopal transfers and rights of bishops. See for example HEIL, *Bishop Leodoin of Modena* and CÒ, *Il De episcoporum transmigratione*.

⁵⁵ SCARAVELLI, *La collezione canonica*, p. 34.

⁵⁶ Vercelli, Biblioteca Capitolare, Ms. XV. While Scaravelli has considered ninth-century Milan as likely place of origin Zechiel-Eckes has suggested early tenth-century Vercelli, SCARAVELLI, *La collezione canonica*, p. 34 and ZECHIEL-ECKES, *Quellenkritische Anmerkungen*, p. 51.

⁵⁷ Modena, Archivio Storico Diocesano di Modena-Nonantola, Biblioteca Capitolare, O.II.2 on which see MORDEK, *Bibliotheca capitularium*, pp. 268-270.

⁵⁸ Paris, Bibliothèque Nationale de France, Manuscripts, Lat. 15392. The colophon written by the scribe Rudolf can be seen at url <https://gallica.bnf.fr/ark:/12148/btv1b105461769/f439.item.r=collectio%20anselmo>.

⁵⁹ Bamberg, Staatsbibliothek, Msc. Can. 5. In the eleventh part are missing the canons from 3 to 22.

⁶⁰ FERRARI, *Manoscritti*, p. 106 and HOFFMANN, *Bamberger Handschriften*, p. 122.

the Vatican Library and they represent the oldest copies known of our collection having been both dated to the last quarter of the ninth century⁶¹. The *codex Pal. Lat.* 580 was likely produced in Milan and contains the first four parts of the *Anselmo dedicata*, while the *codex Pal. Lat.* 581, also from northern Italy, only transmits the first three parts of the collection⁶². Both manuscripts were housed at the cathedral library of St Martin in Mainz before eventually ending up in the Vatican⁶³. Considering that Rather of Verona only used material from the first four parts of the *Anselmo dedicata* in his works and that it was in Mainz that he wrote his *Phrenesis* after the ousting from Liège, Roberts has compellingly suggested that the bishop of Verona himself might have been responsible for the relocation of these two manuscripts to Mainz⁶⁴. The last incomplete manuscript containing a large portion of the *Anselmo dedicata* is the *codex* today at Karlsruhe, but produced in Reichenau during the first half of the tenth century which contains parts five to ten of our collection⁶⁵. Finally, there are a few smaller medieval fragments of the *Anselmo dedicata* extant produced both north and south of the Alps. Horst Fuhrmann has identified in Strasbourg four *bifolia* containing canons of parts two, three, nine and ten of our collection, which according to him all belonged to a same *codex* written in West Frankia at the end of the ninth century⁶⁶. Three *folia* containing bits of the seventh part of *Anselmo dedicata* had been found in Pavia by Ugo Fiorina, who has published them suggesting that they all belonged to one *codex* written in northern Italy (probably in Pavia itself) either at the end of the ninth or beginning of the tenth century⁶⁷. Lastly, a *bifolium* containing canons from third and fourth part of the *Anselmo dedicata*, likely written in Mainz during the first decades of the eleventh century, has been discovered in Koblenz by Peter Brommer⁶⁸.

⁶¹ Città del Vaticano, Biblioteca Apostolica Vaticana, Manoscritti, *Pal. Lat.* 580 and 581.

⁶² SCARAVELLI, *La collezione canonica*, p. 35.

⁶³ FUHRMANN, *Einfluß und Verbreitung*, p. 312.

⁶⁴ ROBERTS, *Bishops on the Move*, pp. 133-134. Further research on these *codices* may strengthen Roberts' theory, especially a closer look to the earliest *nota* marks present in them could prove a direct use of Rather. Regarding the time of their arrival in Mainz, at the moment we can only say for certain that one of them was there at the end of the Middle Ages as evidenced by a late fifteenth-century note of possession written in the first page of it, which reads: «Iste liber pertinet ad librariam Sancti Martini Ecclesiae Maguntinae. M. Sindicus est 1479», Città del Vaticano, Biblioteca Apostolica Vaticana, Manoscritti, *Pal. Lat.* 580, fol. 1r.

⁶⁵ Karlsruhe, Badische Landesbibliothek, Aug. CXLII. ZECHIEL-ECKES, *Quellenkritische Anmerkungen*, p. 51.

⁶⁶ FUHRMANN, *Fragmente*, pp. 541-542.

⁶⁷ FIORINA, *Due frammenti*.

⁶⁸ BROMMER, *Ein Koblenzer Fragment* and ZECHIEL-ECKES, *Quellenkritische Anmerkungen*, p. 51.

From what has been said about the medieval manuscript tradition of the *Anselmo dedicata* it is possible to draw some observations on the dissemination of this canonical collection north of the Alps. Originating in Lombardy during the last quarter of the ninth century, the *Anselmo dedicata* quickly reached the other side of the Alps, as witnessed by the fragments of it copied in West Frankia before the turn of that century and today preserved in Strasbourg. The dissemination of our collection continued in the tenth century when another *codex* containing substantial parts of it was written in Reichenau and possibly two older Italian copies reached Mainz via Rather of Verona. With the turn of the first Millennium we witness the final wave of dissemination of the *Anselmo dedicata* when our collection was copied in Verdun and Mainz (manuscripts today in Paris and Koblenz respectively), while another *codex* from northern Italy reached Bamberg. Looking at the *nota* marks present in these manuscripts could allow what use transalpine bishops made of the *Anselmo dedicata* to be further appreciated. The preliminary study of these annotations in the copy of Verdun, for example, has allowed Charles West to suggest how Bishop Haimo (988-1024/1025), or one of his immediate successors, used the *Anselmo dedicata* to stress the immunity of bishops, the dangers of simony, the separation between laity and clergy and the episcopal authority over priests⁶⁹. Nevertheless, what best demonstrates how the *Anselmo dedicata* acted as a bridge of legal culture across the Alps is its being the main source of canonical material for one of the most influential canonical collections of the eleventh century: the *Decretum* of Burchard of Worms⁷⁰. As a matter of fact, a fifth of the canons of Burchard's *Decretum* were taken by its compiler directly from our collection, where this vast material was to be found conveniently arranged by topics⁷¹.

4. Conclusion

Lombardy had a crucial role in the revival of legal culture in medieval Europe. As seen in the introduction, during the eleventh century legal experts active in the region prepared the ground for the revival of jurisprudence later achieved

⁶⁹ WEST, *Bishops between Reforms*, pp. 80-82.

⁷⁰ It is probable that another canonical collection produced in Germany during the eleventh century, the *Collectio duodecim partium*, also took abundant material from the *Anselmo dedicata*, SCARAVELLI, *La collezione canonica*, p. 50.

⁷¹ AUSTIN, *Shaping Church Law*, pp. 41-43 and 129-131.

in Bologna. The subtle exegetical methods, interpretative controversies and engagement with Roman Law shown by these men and witnessed by the *Expositio ad Librum Papiensem* identify eleventh-century Lombardy as the cradle of medieval jurisprudence. Nevertheless, Lombardy played an important part in the history of legal culture even prior to the turn of the first millennium. Looking at the Ottonian diplomas has allowed us to see how this region was crucial in the shaping of legal culture across the Alps during the second half of the tenth century. The innovations that Lombard clergymen introduced in the drafting of sovereign diplomas were taken as a model by their transalpine counterparts, and significantly contributed to the ideological development of the imperial dignity throughout the Ottonian period. The idea of direct divine derivation of the imperial office and the concept of *renovatio imperii Romanorum* put forward by churchmen of the calibre of Hubert of Parma and Leo of Vercelli, allow us to fully appreciate how strongly Lombardy participated in the shaping of legal culture across the Alps at the time. In turning our focus to canon law, we have then seen how this same region had been at the centre of fundamental exchanges of legal culture between the two sides of the Alps since the late Carolingian period. The *Collectio Anselmo dedicata* produced in Lombardy for the Archbishop of Milan, Anselm II (882-896) is an emblematic example of this. Its anonymous compiler gathered a vast number of norms inherited from the previous centuries and arranged them in twelve parts in order to provide a sort of blueprint of the ideal Christian society. While such an endeavour demonstrates the vitality of legal culture in the period around the year 900, a closer look at the sources of the *Anselmo dedicata* reveals the exchanges of legal culture in which it participated. Amongst the sources of this collection were the Pseudo-Isidorian decretals which had been produced in the diocese of Reims during the 830s or 840s. The considerable use of this transalpine canonical material in the *Anselmo dedicata* represents one of the first, and certainly the major, examples of the reception of the False Decretals south of the Alps. However, the study of the *Anselmo dedicata* does not only reveal exchanges of legal culture from north to south, as this canonical collection soon crossed the Alps. Transalpine bishops commissioned copies of the *Anselmo dedicata* and resorted to them in order to emphasise the autonomy of their office, their control over priests and the separation between laity and clergy. The influence of this collection north of the Alps can be further appreciated at the turn of the first millennium when it became one of the main sources of Burchard of Worms' *Decretum*. Therefore, in the light of the *Anselmo dedicata* it has been possible to show how Lombardy acted as a bridge of legal culture across the Alps throughout the post-Carolingian period.

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All the websites mentioned in the paper are to be considered active on the date of the last consultation: March 15, 2021.

TITLE

Legal culture across the Alps during the post-Carolingian period

Cultura giuridica attraverso le Alpi in epoca postcarolingia

ABSTRACT

Scholarship on the eleventh century has stressed the central place that Lombardy had in the early Middle Ages for the revival of legal culture in medieval Europe. After having retraced these studies and discussed how this same region had al-

ready played an important role for the shaping of legal culture across the Alps during the Ottonian period, my paper focuses on Canon law. Until recent years little or no attention has been paid to the history of Canon law in the decades around 900. According to the classic narrative on this period, it was only in the eleventh century that something new took place in the history of Canon law, specifically the development of canonical collections which aimed not only to systematically re-arrange, but also to re-shape a vast number of norms inherited from the previous centuries. Looking at the canonical collection *Anselmo dedicata*, produced in northern Italy for the Archbishop of Milan, Anselm II (882-896), this paper aims to highlight the pivotal role played by Lombardy in the shaping of Canon law across the Alps during post-Carolingian period.

Una serie di studi dedicati all'undicesimo secolo ha messo da tempo in luce il ruolo centrale che la Lombardia ebbe durante l'alto medioevo per la rinascita della cultura giuridica nell'Europa medievale. Dopo aver dato conto di questi studi ed aver discusso come la Lombardia avesse già durante l'età ottoniana ricoperto un importante ruolo per la formazione della cultura giuridica attraverso le Alpi, il mio contributo si concentra sul diritto canonico. Sino a pochi anni fa la storiografia ha dedicato scarsa attenzione alla storia del diritto canonico nei decenni intorno al 900. Secondo la classica lettura di questo periodo, fu solo durante l'undicesimo secolo che qualcosa di veramente nuovo si manifestò nella storia del diritto canonico, nello specifico lo sviluppo di collezioni canoniche che miravano non solo a riordinare in modo sistematico, ma anche a riutilizzare con fini specifici propri una vasta serie di norme elaborate nei secoli precedenti. Guardando alla collezione canonica conosciuta come *Anselmo dedicata*, la quale fu prodotta in Italia settentrionale per l'arcivescovo di Milano Anselmo II (882-896), questo contributo intende sottolineare il fondamentale ruolo ricoperto dalla Lombardia nell'evoluzione del diritto canonico sui due versanti alpini durante l'età postcarolingia.

KEYWORDS

Legal Culture, Early Medieval Canonical Collections, *Anselmo dedicata*, Alps
Cultura giuridica, collezioni canoniche altomedievali, *Anselmo dedicata*, Alpi