DETURSIO, PENAL CLOISTERING
IN THE MIDDLE AGES*

INTRODUCTION

Histories of the prison routinely focus on the church as a major impetus behind punitive incarceration, and with good reason: although imprisonment for laymen was formally sanctioned by Boniface VIII only in 1298, the measure served clerics and monks — ordines ideologically opposed to the shedding of blood — as an apposite punishment long before the pope’s pronouncement.1 On one hand, throughout the Middle Ages episcopal palaces maintained adjunct prisons for clergy, and cells allocated for confining erring brethren became obligatory in many monastic houses.2 On the other,

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1. Quamvis invento carceris fuerit ad custodiam, tamen potest quis puniri poena carceris perpetuo et ad tempus. Corpus Iuris Canonici, Liber Sextus Decretalium, 5.9.3.

secular legislators rarely prescribed punitive imprisonment before 1250, a time when prisons proliferated as never before. The thirteenth-century shift is usually explained as a delayed adoption of the established ecclesiastical practice, and occasionally as a triumph of a Christian “penology.”

Yet the accepted view imputes from the distinctiveness of two legal traditions an unlikely divide between their respective penal practices. In fact, the overlap between lay and ecclesiastical recourse to imprisonment emerges as substantial throughout the medieval period: prior to and often in parallel with the establishment of municipal prisons, lay mercenaries could serve prison sentences, and they would often do so in monasteries. This aspect of the monastery’s role in the settlement of disputes remains an obscure phenomenon in medieval social, religious, and legal history.

The procedure by which ecclesiastical and secular lords could cloister non-monks was occasionally called detrusio, literally, “casting away.” Varnriors, some more euphemistic than others, include retransicion, relegatio, regradatio, exilium in monasterio; one could be deputatur or damnatur in signo religionis, or simply instructed andare in monasterium. For the purposes of the present discussion, however,


detrusio will serve as the default term. Furthermore, while the measure could encompass the "internal" exiling of lay political dissidents, heretics, and clerical offenders, here we shall mostly focus on the procedure as specifically applied to laymen. Our goal is to chart in a broad sense the social, religious, and political considerations attendant upon the use and administration of detrusio, and explore how it functioned in relation to religious penance, secular punishment, and monastic discipline. After describing a general anatomy of penal cloistering we will proceed to illuminate medieval mechanisms of social control from a new perspective by suggesting that monasteries served as alternative arenas for struggles between lay, ecclesiastical, and monastic powers. Last, we will explicate the relations between two seemingly disparate phenomena, namely, the continuity of punitive incarceration practices from Late Antiquity to the late Middle Ages, and the enduring perception of monasticism as a superior form of penitential living.

This attempt to construct a framework for the study of detrusio engages several sets of themes. Consecutive sections will explore the evidence from prescriptive and narrative sources; the measure's implementation within monasteries and its potential implications; the variety of jurisdictional tensions which converged on it outside the cloister; and its social, religious, and legal significance. A coda resituates monastic incarceration vis-à-vis three key moments in the general history of the prison: the failed attempt by Peter the Chanter and his circle in the late twelfth century to commute corporal punishment for heretics into perpetual incarceration; the widescale imprisonment of heretics by papal inquisitors in the thirteenth century; and the development of state prison systems from the late eighteenth century, a process famously and imprecisely dubbed by Michel Foucault and others as "the birth of the prison." Revisiting these instances through the prism of detrusio demonstrates that it was in monasteries above all where a form of rehabilitative penance was practiced for centuries prior to the advent of modern penology.

Evidence from Penitential Collections

Our knowledge of detrusio derives to a certain extent from narrative sources and secular legislation, but is mostly based on prescriptive
texts such as monastic rules and penitential compendiums. It is impossible to ascertain the latter's rate of preservation or representativeness, yet, largely due to recurrent borrowings, these texts are fairly consistent when prescribing *detrusio* both for clergy and laity (the latter are marginally more numerous as subjects of such clauses in the extant sources). A comprehensive (but not exhaustive) survey of penitential collections available in print and dating from the sixth to the fourteenth century reveals a regular stipulation of cloistering for non-monks as a primary, secondary, or commuted sentence for a number of major infractions, including sexual misconduct, homicide, perjury, theft, divination or consulting seers, rebellion, unlawful involvement in or abuse of clerical office, and forgery.

Elucidating a hierarchy of violations even within a single penitential manual is a frustrating task. Characteristically, *detrusio* is one of several measures prescribed for a group of similar offenses or for grave crimes categorically. By comparison, life-long penance in the "world," including perpetual exile, is generally more common as an exclusive punishment. Nonetheless, the sweeping clauses specifying cloistering against repeat adulterers, thieves, perjurers, and homicides, or for perpetrators of generic "multa mala," bear witness to its widespread role in ecclesiastical penal law and penitential practice.  

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8. Qui multa mala fecerit, id est homicidium, adulterium, cum pecore, cum muliere, et furtum fecerit, penitentiam ejus iudicavit, ut in monasterium exiret, et poenitentem usque ad mortem. "Canones Gregorii" 98, in BaK, 171 (England, late-seventh/mid-eighth century). And see "Penitentiale Theodori" VII, 1, in CT, p. 298; "Judicia Theodori" 91 (ibid., p. 246; both contemporary recensions of the former text); "Paenitentiale Marschurgeuse a" 47 [Me1 and parallels], in Kottje, 1:141 (Lombardy, late-eighth century); "Paenitentiale Cordubense" 130, in Kottje, 2:64 (southern Spain, ninth/tenth century); "Paenitentiale Pseudo-Egberti" II, 24, in BaK, p. 328 (Germany/England? late ninth century); Bonizo of Sutri, *Liber de Vita Christiana*, X, 4, ed. Ernst Perils (Berlin, 1930), p. 306 (Italy, late eleventh century) [henceforth LVC]. Throughout this essay, I make no attempt to map the lexical borrowings
Specific mentions of lay penal cloistering are rare in the surviving pre-sixth-century sources, particularly on the Continent. Two Novels in Justinian’s Corpus Iuris Civilis prescribe it for adultery, and Canon 6 of the Council of Narbonne (589) contains the earliest known allusion in a synodal decree. Similar clauses are more frequent in later collections, though this by no means proves a steady increase in prescription, let alone in actual recourse. The Poenitentiale S. Columbani (c. 600) calls for the perpetual cloistering of laymen guilty of perjury “per cupiditatem.” Later in the seventh century, collections such as the Capitula Darcheriana, the Canones Gregorii, and the Poenitentiale Theodori stipulate perpetual and indefinite cloistering sentences for repeat and major offences, usually homicide, incest, and theft. Around the turn of the eighth and ninth centuries, detrusio featured in Irish, English, Italian, Spanish, and German penitentials for a range of offences including theft, perjury, incest, and homicide.

With Rabanus Maurus (d. 856), abbot of Fulda, an underlying rationale for the practice emerges. Propounding the advantages of confinement over exile, the biblical paradigm for punishing parricides (cf. Gen. 4:12), he writes:

Since fugitive parricides nowadays scurry over different places, and devote themselves to different vices and the enticements of gluttony, it seems better to me that, by remaining in one place, they could correct themselves with severe penance, whence perchance they might deserve to obtain indulgence for their crime by the Lord’s favor.

among these texts (which, however, are frequent), but only to underscore the persistence of clauses stipulating detrusio.

10. See n. 8 and “Sindus Aquilonalis Britanniae” I and 2, in Bihus, p. 66 (Wales, early sixth century); “Poenitentiale S. Columbani” 20, ibid., p. 104 (Ireland, c. 600); “Capitula Darcheriana” 92, in Bihus, p. 153; “Canones Gregorii” 192, ibid., p. 189; “Poenitentiale Theodori” III, 1, in C1, p. 265 (all from England, late seventh/mid eighth century); IKS XXVIII, 10 and XXIX, 7 (pp. 114 and 119-20, respectively) (Ireland, late seventh/early eighth century); “Poenitentiale Pseudo-Bedae” XLIX, 1, 3 and 4, in Bihus, pp. 280-81 (Germany, late eighth century); “Poenitentiale Merseburgense a” 51 [W10], in Kottre, 1:140 (Lombardy, late eighth century); “Poenitentiale Vigilianum” 27, in Kottre, 2:5; “Poenitentiale Silenciat” 47, ibid., p. 21 (both from Spain, c. 800); “Poenitentiale Sangallense tripartitum,” Theodori episcopi de homicidio 1, in Meuns, p. 536; “Poenitentiale Vindobonense B” XII, XXXI, and XXXII A, in ibid., pp. 378, 494 and 496 (both from southern Germany, late eighth/early ninth century).
11. Sed quia in modernis temporibus parricidiae profugi discurrent per diversa loca, et varia viatis atque guiae iliccebris deserviunt; melius mili videtur, ut in uno loco manentes poenitentia disticta sometipos castigent: si forte a Domini bonitiae indul-
The passage harnesses punishment to personal salvation through monitored confinement. To follow Rabanus’ reasoning, incarceration has the merit of joint supervised expiation, a situation guaranteeing the penitent better access to divine clemency. Exile, in contrast, secures neither contrition nor correction; it may help promote social order locally, but risks enticing the would-be penitent deeper into sin, especially given his or her social isolation and lack of supervision. In fine, like penitence in general, 
\textit{detrusio} in particular offers sinners a genuine opportunity for spiritual relocation, from the abyss of damnation to the threshold of salvation.\footnote{Rabanus' formulation is confident and succinct, and although there is no mention of monasteries in the passage, a number of later prescriptions suggest that this reasoning, or an argument along similar lines, found an attentive ear among laymen and clerics alike. During the century that followed, 
\textit{detrusio} was prescribed four times by Regino of Prüm, thrice by Pseudo-Egbert, and six times by Bonizo of Sutri, and was subsequently advocated by a succession of compilers such as Burchard of Worms (d. 1025), Alain de Lille (d. 1203), and many others. Jointly these references throw light on the meaning of \textit{gentium facinoris sui percipere mereantur. Rabanus Maurus, Poenitentiam Liber XI (PL 112:1410).}

12. The notion was first suggested by Clare Stancliffe, “Red, White and Blue Martyrdom,” in Ireland in Early Medieval Europe. Studies in Memory of Kathleen Hughes, eds. Rosamond McKerrcher, David Dumville and Dorothy Whitlock (Cambridge, 1985), pp. 21-46 at 45-46.

13. Elsewhere in his treatise (XXIII [PL 112:1417]) Rabanus includes a prescription of perpetual cloistering against clergy who indulged in divination.

14. LSC, I, 186; II, 259, 333, and 359 (pp. 92, 315, 343, and 390, respectively); “Poenitentiale Pseudo-Egberti” (above, n. 10), I, 19; II, 24; Add. 18; LVC, IX, 48 and 57; X, 4, 8, 42 and 46 (pp. 294, 297, 306, 308 and 321, respectively). The trend continues through to the fourteenth century, e.g., “Poenitentiale Vallocellanum III,” Ex decrevis Nicolai, in BHK, I,781 (Germany, tenth/early eleventh century); Burchard of Worms, De rebus Deocrorum Libri XX, VI, 39 (PL 140:774) (Germany, 1008-12); Bartholomew of Exeter, Penitential, in Adrian Morsley, Bartholomew of Exeter, Bishop and Canonist. A Study in the Twelfth Century (Cambridge, 1937), nos. 47 (twelve), 49, 50 (twelve), 61, 67, 69 and 104; Alain de Lille, Liber Poenitentialis, ed. Jean Longère, 2 vols. (Louvain, 1965), vol. 2, nos. 15, 26, 52, 65, 67, 79, 121, 129 and 143; “Summula magistri Conradi de poenitentia” 35 and 40.3; “Quia non pigria” 41.3 and 46.2; “Decem dande sunt” 26 and 34, all in Jean-Pierre Renard, ed., Trois sommiers de piété de la première moitié du XIIIe siècle, 2 vols. (Louvain-la-Neuve, 1989), 2:100, 118, 232, 275, 355 and 362, respectively; Thomas of Chobham, Summa Confessorum, ed. F. Bloomfield (Louvain, 1968), VII, q. XVI, c. v; VII, d. 2, q. XVI, c. vi; VII, d. 2, q. XVII, c. vii; VII, d. 2, q. XVII, c. vi; VII, d. 2, q. XVII, c. ii; VII, d. 4, q. VIIIa, c. viii; VII, d. 4, q. VIIIa, c. xii; VII, d. 5, q. Xla; Raymond of Pechafort, Summa de poenitentia et mertrimento (Rome, 1865), I, 116; II, 118; III, 34.42; III, 34.59. The abundance of such prescriptions challenges Mary C. Mansfield’s assertion (The Humiliation of Sinners: Public Penance in Thirteenth-Century France [Ithaca, N.Y., 1995], pp. 107-8), that 
\textit{detrusio} was disappearing by the thirteenth century.
and function of medieval penance for laymen and on the supervisory
or at times active role played by monasteries in the settlement of
disputes.

PROBLEMS OF IMPLEMENTATION: CONVERSION AND INTEGRATION

Although penitentials are usually meticulous in guiding priests
through the process of discerning and expiating sin, they are rather
laconic when it comes to the administration of detrusio: both the
daily routine and the general restrictions imposed on the cloistered
lay penitent rarely merit a mention. Such vagueness may be
justifiable assuming that the monastic rule, which will henceforth
govern the culprit's life, contains all pertinent information. This
explanation, however, raises more questions than it solves.

Was a penitent or criminal hurled into a monastery to abide by its
rule; was he or she expected to undergo a formal conversion; and if so,
was it immediate, or rather probationary, as would be routine for any
novice?\(^{15}\) Answers are not immediately evident despite a certain
tendency among scholars to deduce monastic conversion from penal
cloistering.\(^ {16}\) True, certain clauses stipulating detrusio obligate the
culprit to take monastic vows: according to Bonizo of Sutri, anyone
who violates a nun or a deaconess, "monachus effitiatur"; and a
woman who fornicates with her spiritual father shall relinquish her
possessions, give them to the poor, "et conversa in monasterio Deo
usque ad mortem serviat."\(^ {17}\) However, and notwithstanding the
problems raised by such terse formulae, the issue of conversion is
typically far from clear.

Let us begin surveying the evidence with the better documented
category of political tonsuring, that is, the cloistering of church
prelates and lay magnates who fell from grace or power, and
regardless of whether their move was voluntary or coerced.\(^ {18}\) The few

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15. See Giles Constable, "The Ceremonies and Symbolism of Entering Religious
Life and Taking the Monastic Habit, from the Fourth to the Twelfth Century," in
Segni e riti nella chiesa altomedievale occidentale (11-17 aprile 1985) (Spoleto, 1987),
pp. 771-854.

16. E.g., Poschmann, Die abendländische Kirchenbüße, pp. 118-21; See Mayke de
Jong, "What was Public about Public Penance? Paenitentia Publica and Justice in
the Carolingian World," in La giustizia nell'alto medioevo (secoli IX-XI) (Spoleto,

17. IVC, X, 42 and 46 (p. 321).

18. Clare Stancliffe, "Kings who Opted Out," in Ideal and Reality in Frankish
relevant sources suggest that cloistering was probably never intended as more than an unpleasant retirement. When King Guntram (d. 589) locked the rebellious duo of bishops, Salonius and Sagittarius, in two separate and distant monasteries “to repent for their sins,” they were each to maintain “no more than one cleric” at their service and to refrain from receiving visitors. It is unlikely, to take another celebrated instance, that until his rehabilitation at St. Denis in 834, Louis the Pious was put on kitchen duty, tilled the fields, copied manuscripts, or shared the novices’ dormitory, even if he did participate in the liturgical offices. His formal penance, if indeed undertaken, must have followed a different routine.

The latter two events, of course, involved privileged prisoners. Laymen convicted of heinous crimes, by contrast, fit uncomfortably, if at all, into the categories of externi specified in St. Benedict’s Rule: guests, artisans, novices, oblates, priests, and visiting monks (respectively, cc. 53, 57-61). In their lengthy or permanent stay, and by leading a penitential — rather than regular — life, less distinguished laymen undergoing detrusio could have resembled novices or oblates, while in practice living apart from the community, or at any rate under a distinct regimen, much like Cistercian conversi would. According to a late-seventh- or early-eighth-century Irish collection, the effective expiation for homicides amounted to seven years of penitence “sub regula monasterii.” But the phrasing avoids stating that the culprit must become a monk, whether before, during, or after his penance; and the finite sentence of cloistering itself implies that taking vows was optional rather than compulsory, since monastic vows were, theoretically, perpetual. The passage’s silence regarding conversion is further underscored by a subsequent decree concerning church robbers. The latter passage enjoins that one of the three licit penances in such cases consists of a period of exile and a double restitution of the stolen goods, followed — unambiguously, this time — by conversion: “et post penitentiam erit monachus.”

20. IKS XXVIII, 10 and XXIX, 7 (pp. 114 and 119-20, respectively).
detrusio, under which the offender was to take vows, but only at the end of the penitential period.

The dissociation of detrusio and conversion is made explicit in the Paenitentiale Cordubense, a late ninth- or tenth-century collection from southern Spain. It states that, "if any bishop, priest, or deacon commit a capital offense or give false testimony, let them be deposed from their office and be thrust into a monastery. And there, as long as they live, let them receive a layman's communion."21 In this case, even ecclesiastics are barred from participating as equals in the angelic life; nor does the rubric leave room for eventual integration, unlike in the previous example. When the option of conversion does appear, as in a later passage concerning fornicating minor clergy in a late eighth- or early ninth-century collection (probably from Salzburg), the text insists that initiating the process is solely at the abbot's discretion. And an earlier clause in the same collection preempts that, prior to his conversion, the miscreant "sicul monachus sine grado penitent."22 Furthermore, even an explicit clause concerning detrusio, such as the passage attributed by Regino of Prüm to St. Basil (d. 379), and which deals with monks and clergy found guilty of molesting youths, avoids mentioning any prerequisite or subsequent conversion: after six months of incarceration in fetters, the offender is to spend a further six months in segregated confinement under the supervision of a senior monk, is to engage in manual labor, prayers, and vigils, and is to be always accompanied by two brethren to ensure he remains silent.23 A final example concerns uxorocides, who, according to Bonizo of Sutri, can enter a monastery and live humbly under the direction of the abbot and in the company of the brethren; but once again conversion goes unmentioned.24

Other sources confirm that penitential cloistering of non-monks did not necessarily entail formal conversion, even though conversion may

22. "Paenitentiale Vinobonense B" VI.4-5, in Meens, p. 368 (emphasis mine).
23. Post haec [the initial six months in prison] alius sex mensibus sub senioris spiritualis custodia segregata in curricula degens, operi manuum et oratione atit intentus, vigiliis etblastos subjectus et sub custodia semper duorum fratrum spiritualium ambulet, nulla privata locutione vel consilio deinceps juvenibus coniungendus. I-Sc, II, 259 (p. 315).
24. Ingredere in monasterium, humiliare sub manu abbatia et multorum fratrum precisus adiutus oscura cuneta simplici animo, que tibi ad abbatum fuerint Imperata. I.VC, X, 8 (p. 308).
have ultimately transpired. Evidence for the existence of a separate ordo of lay penitents within monastic milieu is particularly strong in (and perhaps even exclusive to) the Irish tradition. The Life of St. Columba by Adomnán (d. 704) contains several instances of unconverted laymen either expiating in monasteries or approaching the illustrious abbot of Iona with such an intention in mind. Thus, after his voluntary submission to St. Columba, a certain Librán spent seven years away from the main community atoning for murder. Only after completing his penance, and upon his own request, he was formally allowed to take monastic vows. To be sure, the authority of presbyter-abbots in early-medieval Ireland was unique in many ways, and should not be taken as typical of Continental or even Anglo-Saxon legal practices. On the other hand, in a letter from April, 593, to Martinianus, abbot of Palermo, and to Benenatus, notary and administrator of the district of Palermo, Pope Gregory the Great ordered the addressees to investigate the crimes attributed to one "vir clarissimus Bonifatius," who complains that he was unduly excommunicated. If their findings are positive, instructed the pope, "then from our authority let him not only be deprived of the body and blood of our Lord, but also be thrust into a monastery, where he should do penance, so that he can purge the stains of his crime with a suitable lamentation before the eternal judge." As in the aforementioned examples, conversion is absent as a prerequisite for or as a necessary consequence to monastic expiation.

But if the crux of detrusio lay in sequestering culprits rather than in processing them through a novitiate, in what capacity did they function within the cloister? Where, how, and with whom would the penitent live? What sorts of material ramifications did such an entry


27. Ibid., ii.39 (pp. 154-63).


have either for the penitent or for the existing community? The available sources shed very little light on such matters, which are further complicated by the many circumstantial variables that must have been involved. For instance, the burden on available human and material resources could be minor in the case of large foundations, but relative wealth, which would help absorb an added mouth, is probably an unreasonable premise. On the other hand, while modest convents would be hard-pressed to subsidize another resident for extensive, let alone interminable, periods, they could benefit from an able person supplementing its workforce. 30 Another solution was to have the penitent finance his or her maintenance, as several Novels from Justinian's Corpus Iuris Civilis suggest. 31 This practice, as St. Benedict's Rule testifies (c. 58), was acceptable if not common, and is paralleled throughout the Middle Ages in the fees that inmates of secular prisons paid to meet the expenses of their incarceration. 32 Perhaps, therefore, a culprit's financial means or access to charitable aid could have enabled, and in any case help facilitate, penal cloistering.

If so, to a certain degree the sentencing and administration of detrusio was premised on an ad personam approach. An individual’s background, gender, age, status, and skills were considered along with the contingent political and social circumstances of each case, which in turn could have had various implications on a particular foundation’s routine, economy, and reputation. All this, of course, is speculative; future localized studies may indicate if certain instances of penal cloistering reflect a specific social or political status quo. But until then, it is plausible that the apparent casualness of penitential manuals on this matter consciously encouraged flexibility: a more nuanced treatment would have reached distant readers in an impracticable form.

30. See LSG, II, 259 (p. 315) to this effect.
31. E.g., 117.13, 123.30, 134.10.1, 134.11.1, 134.12.
The Politics of Detrusio

As mentioned above, the penance of monks soon came to encompass designated cells or prisons within the cloister. "Whoever shall be excommunicated for any fault," wrote Caesarius of Arles (470?-542) in his Rule for Monks, "let him be sequestered in a cell and read there with an elder until he is forced to acknowledge his sin." As such cells proliferated, a link was forged between cloisters and a specific form of punishment. The conceptual and physical availability of monastic prisons may have aided the development and application of detrusio, but the measure was not simply an external imposition by lay or ecclesiastical magistrates. For it is likely that, under certain circumstances, a layman’s entry could even have made a positive contribution to a monastic house, at least economically, if not by repute.

Given the scarcity of direct testimonies, the extent to which forces outside the monastery walls influenced the employment of detrusio is mostly a matter of speculation. Still, the gradual installment of penal cells in religious foundations seems to have played into the hands of lay and ecclesiastical lords as a ready-made solution to assert their power. Although secular judges rarely meted out incarceration sentences prior to the mid thirteenth century, detrusio could become relevant in cases where exile was undesirable, corporal punishment deemed too harsh, a pecuniary fine rendered irrelevant (for instance, due to poverty), or simply when a regime lacked custodial facilities.


Lay penal cloistering, in short, was not a hypothetical measure. By Carolingian times monasteries were fast becoming integral elements of the contemporary topography of power, and with them, the possibility of their employment for custodial or punitive purposes. It is no accident that the savvy Rabanus Maurus, patrician abbot of Fulda and archbishop of Mainz, supplied a coherent defense for lay 
\textit{detrusio}, as we have seen.\textsuperscript{35} In fine, alongside great monastic patrons, magnate and lay abbots, too, continually exerted their influence and may well have offered (or denied) a penitent a place in a convent.\textsuperscript{36}

Factors outside the cloister influenced the practice of 
\textit{detrusio}. Analyses of elite political tonsuring illustrate how forced monastic internment was more than an ecclesiastical prerogative.\textsuperscript{37} Yet even as a theoretical penalty 
\textit{detrusio} was not exclusive to ecclesiastical jurisprudence: Visigothic law, for instance, stated that adulterers and sorcerers are to undergo monastic incarceration,\textsuperscript{38} and men who kidnapped nuns for conjugal purposes would be treated similarly under early Bavarian law.\textsuperscript{39} But whether lay or ecclesiastical, such measures operated under peculiar political and administrative constraints. For although 
\textit{detrusio} could rely on anything from enthusiastic cooperation to begrudged consent on the part of clerics, it required some overlap between the political, social, and spiritual aims of the parties involved. Such common interests undergirded the family networks of bishops, lay lords, and abbots, especially with the swelling of 
\textit{Eigenkloster} from the seventh century on.\textsuperscript{40} Furthermore, given a selective admittance of lay deviants, monasteries could find some reassurance in the public acknowledgement of their vocational superiority and capacity for social control.\textsuperscript{41} And by either aligning

\footnotesize{\textsuperscript{35} On Rabanus' pedigree see Matthew INNES, \textit{State and Society in the Early Middle Ages. The Middle Rhine Valley, 400-1000} (Cambridge, 2000), pp. 64-69 and passim.  
\textsuperscript{36} See GELTNER, \textit{The Medieval Prison}, Chapter One, for numeraries in Bologna and Venice serving as prisons for women well into the thirteenth century.  
\textsuperscript{38} \textit{Leges Visigothorum} III, 5.1; VI, 2.4, ed. Karl ZEUMER, MGH \textit{Leges} 1 (Hanover, 1902), pp. 159 and 269 (respectively).  
\textsuperscript{39} \textit{Leges Baiuvariorum} I, 10.11, ed. E. L. H. DE SCHWIN, MGH \textit{Leges} 5.2 (Hanover, 1926), p. 283. Deference to ecclesiastical jurisdiction in cases of incest or patricide is exceptionally rare. One instance is \textit{Leges Alamannorum} XL, ed. K. LEHMANN and K. A. ECKHARDT, MGH \textit{Leges} 5.1 (Hanover, 1966), p. 100, which stipulates \textit{detrusio} alongside other punishments.  
\textsuperscript{40} INNES, \textit{State and Society}, pp. 13-50.  
\textsuperscript{41} A heated debate between Anselm of Havelberg and Peter Abelard erupted precisely over this matter in the twelfth century — the former interpreting the cloistering of degraded clerics as evidence of monasticism's inferior dignity, the latter drawing the}
itself with local magnates or absorbing a trained laborer, craftsman, or scholar, a monastery could enhance its reputation and local influence. Last, it is plausible that perpetrators of particularly heinous crimes who would customarily face capital punishment, dismemberment, highly onerous fines, or exile were eager to enter a monastery, an ostensible amelioration. True, offended parties may have seriously questioned the retributive value (or indeed the legitimacy) of detrusio, yet they could at least be consoled by the definite, if bloodless, vanishing of the perpetrator.

Above all, meting out detrusio sentences was most likely to be influenced by local tensions between lay and ecclesiastical powers. The bishop’s jurisdiction, though increasingly well defined, and his effective intervention in the settlement of disputes, never went unchallenged. Lay lords remained vigilant in the face of attempts to chip away at their power (and income), especially in homicide cases. Conversely, and as noted above, detrusio was not solely an ecclesiastical prescription. At least prior to the twelfth century, rich affinities between bishops and the local aristocrats who mostly bred or otherwise appointed them to office enabled recourse to monasteries as lay penal facilities. It seems, then, that monastic interment for and by laymen could have relied on corresponding ecclesiastical legislation for its legitimacy while simultaneously signaling lay jurisdictional prerogatives.

The picture emerging from the few available sources, whether prescriptive or narrative, is admittedly skewed. While secular legislation was seldom occupied with promoting detrusio or imprisonment in general, ecclesiastical laws which endorsed the measure mostly focused on laymen. Confident secular rulers or regimes could resort to political tonsure at least as an extra-judicial measure or to detrusio proper without serious obstacles, as was the case among some Italian

communes. To the church, however, monasteries were precious political assets, uniquely suitable for displaying its moral integrity. In this sense, lay penal cloistering appears to be a spiritually rehabilitative and bloodless response to even the most heinous of crimes. Accordingly, rather than taking the penitentials at their word, we ought to regard the prolonged attempt to impose detrusio on laymen more as a moral-rhetorical gesture than as a direct reflection of actual jurisdictional distinctions or penal practices. There is no reason to believe that lay perpetrators of grave crimes defaulted to local bishops (and later, to ecclesiastical courts) unobstructed, or to assume that they were everywhere welcomed into monasteries.

Prescriptions concerning detrusio were far from intellectual aerobics ungrounded in penal practices. Monastic prison cells did exist and local rulers, whether secular or ecclesiastical, intermittently put them (or the foundations in which they existed) to penal use. To be sure, early canon lawyers and compilatores of penitential manuals probably overreached themselves in asserting the punishment of grave offenses such as homicide as an ecclesiastical prerogative. Yet, at least on certain occasions, laymen did find themselves cloistered temporarily or for life, rather than exiled, executed, mutilated, or impoverished.

Monasteries and Penitential Instruction

We now move to examine the ideology behind employing cloisters as focal points for lay penitence. Cyrille Vogel, the great student of penitential literature, argued that the verb paenitire (to do penance), which persists throughout ten centuries of ecclesiastical legislation, could only mean ieiunare (to fast). Recent scholarship has proven this statement both inaccurate and inhibiting to the interpretation of the social functions of penance. By pointing to the visibility of penitential action and by explicating its shared communal significations, scholars such as Mayke de Jong and Mary Mansfield offered important correctives to Vogel’s influential methodology, terminology, and chronology. Championing a new understanding of penitence in the aftermath, respectively, of the Councils of Chalon-sur-Saône (813) and

44. Geltner, The Medieval Prison, Chapter One.
45. The papal bull Ad Abolendam (1284) and the institution of “relaxing” unrepentant heretics to secular authorities for punishment would eventually undermine this rationale.
Lateran IV (1215), de Jong and Mansfield shifted the focus of discussion from the success or failure of specific councils to the social visibility of penance. Neither scholar, however, considered the social and political aspects of desirous (as defined here) as a penitential act or rather solution that was a point of contact among secular, clerical, and monastic powers. It is an unnecessary assumption that, since this penitence took place in monasteries, it lacked in public visibility.

Lay penance originally emerged as a liturgical rite performed in full view of the community. Monasticism, in contrast, offered an ostensibly sheltered model of penance, though this should hardly render it private or occult. From its outset, the monastic movement was a constituent part of the physical, social, and spiritual topography of the late-Roman world. Monastic life and its prototypes (the cave, the column, the confessors' prison) inspired great admiration among contemporaries and profoundly influenced popular piety. But if people flocked to the monasteries, monks also called on the world by shaping the basic forms of lay penance.

Prior to urbanization and the advent of the mendicant orders, monasteries operated as a centrifuge of penitential doctrine and practice. To see medieval monasticism in this light is to join two key observations made by Peter Brown and Mayke de Jong concerning the development of early-medieval Christianity from its late-antique origins. Brown delineates a process deeply invested in what he calls the "sinification" of the world ("peccatisation du monde"), or the projection of an apocalyptic mentality on pre-Parousian times; while de Jong posits a "monasticising" of society by stressing the reciprocal flow between lay penitents and monastic foundations. Despite their different emphases, both insights identify monasteries as key conduits for introducing penance as a salient aspect of medieval lay piety.

For, however genuine their inner disposition towards seclusion was, monks rarely shunned the "world" completely. Although monastic apologists have consistently imagined the cloister as an isolated prison, it was no island.\(^52\) The proliferation of monasteries and their increasing affluence, their importance as educational and evangelical vehicles, and their key role in rural administrations jointly testify to their proud position at the forefront of a consolidating Christianity. Thus, monastic engagement probably strikes us as perplexing more than it did contemporaries, especially considering the original function of convents as gateways to and conduits of penance. Early Christians who showered cloisters with donations sought not only power and the preservation of property, but also healing (through relics), expiation of sin (through prayer) and guidance (through periodic contact, confession, and penance). Centuries before Cluny and Gorze, the notion that giving to monasteries is a form of expiatory alms was already made explicit, for instance in donation charters.\(^53\)

From Late Antiquity to the late Middle Ages "penitential traffic" flowed both to and from the cloister. On one hand, public penance crystallized as a technical term for atonement of sins committed, revealed, or confessed openly (rather than confidentially) to a priest; and for a growing number of penitents, expiation involved entering or processing through a monastery. On the other hand, monks could also engage lay communities, as in the case of Irish\(^\textit{peregrini},\) many of whose continental foundations served as centers of pastoral care and penitential instruction, whether through active preaching or by the production of pastoral texts.\(^54\) Earlier still, Gregory the Great mobilized monks on the mission to the Anglo-Saxons, while the island-monastery of Lérins bred some of the greatest bishops of Merovingian Gaul. Finally, by the central Middle Ages, the ubiquitous incorporation of\textit{Eigenklöster} into monastic estates prompted a sharp rise in the number of ordained monks.\(^55\)

By merging further into public space in the early Middle Ages, monasteries helped shape lay piety and public order. Their role as

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53. \textit{Innes, State and Society, pp. 31-4, 95-102.}


public penitentiaries, in the original sense of the term, maintained their traditional pastoral role. In the context of this discussion, it would not have disturbed contemporaries to witness or contemplate the notion of a lay person cloistered, sometimes perpetually, to atone for his or her sins. The choice of monasteries as prisons for non-monks was quite in tune with the tenacious public role that cloisters played in the creation, development, transmission, and sustenance of contemporary penitential thought and practice. Their unique situation between the secular church and lay power rendered them as veritable “middle grounds” of penance, optimally suited for maintaining social control, ecclesiastical moral superiority, and monastic prestige without offending contemporaries. Depositing religious and social deviants in monasteries, although a potentially burdensome undertaking for many smaller foundations, nonetheless helped re-inscribe the role of monks, not only as “those who pray,” but also as those who teach, supervise, and correct.

DETRUSIO IN THE HISTORY OF THE PRISON

The foregoing discussion underscores the endurance of punitive imprisonment from its modest beginnings in Late Antiquity to its nascent proliferation in the thirteenth century. As such, it urges a reevaluation of three important moments in the history of the prison: the attempt in late-twelfth-century Paris to implement perpetual incarceration for heretics; the foundation of the first Inquisitorial prison in Toulouse (1245-46); and, last but not least, the emergence of imprisonment as the basis of state penal systems, a process which Michel Foucault famously dubbed the “birth of the prison” and which commenced in the late eighteenth century. These allegedly pivotal moments assume a different aspect when considered vis-à-vis an enduring tradition of detrusio, whether in thought or practice.

At the turn of the twelfth and thirteenth centuries, Parisian theologians Peter the Chanter (d. 1197) and Thomas of Chobham (fl. 1200-1233), lobbied at the Capetian court to commute capital punishment for heretics into perpetual incarceration.56 These efforts ultimately failed. Robert of Courson, an antagonist of the Chanter’s circle on this matter, successfully rejected the idea of mass imprison-

ment as impractical on the grounds of insufficient facilities. Since monasteries, as we have seen, were already employed for such purposes, Robert's argument suggests that his opponents did not expect the French monarch to rely entirely on cloisters. If so, the Chanter's audacity lay in attempting to transfer the administration of prisons from ecclesiastical into royal hands, rather than in conceiving of incarceration as an apt punishment for a crimen exceptum, which heresy had by then become.57

Merely a generation later, in the aftermath of the Albigensian Crusade (1209-29), secular lords and ecclesiastics in the French Midi jointly began implementing punitive imprisonment for heretics.58 The appropriation or erection of Inquisitorial prisons is justly linked to a transformation "from inquisitors to Inquisition," yet it is not the case that the inquisitors articulated a new penal measure.59 The above discussion demonstrates that the introduction of monastic penance into the lay world was unique neither to St. Dominic nor to his followers, including Raymond of Peñaafort, the great Dominican exponent of confessors' manuals. In fact, tracing Raymond's prescriptions of detrusio illuminates his debt to earlier canonists.60 Only now the friars were engaged in an urgent and wide-scale spiritual reform and with greater coercive powers at their disposal. Thus, the inquisitors' contribution was to confirm and elaborate punitive imprisonment — a significant achievement in and of itself — rather than offer a new penitential measure. It is in this context that we should see the conversion, around 1245-46, of a building near the church of St. Sernin, Toulouse, into the first major Inquisitorial prison for convicted heretics: the process consisted in an eventful translatio of an existing penal modality from cloister to urban center.

60. See above, n. 14.
Last, this account joins several earlier attempts to revise Michel Foucault's influential thesis, namely the linking of the so-called birth of the prison with the advent of Enlightenment penology, which purportedly effected a shift from purely retributive, and mostly corporal punishment to socio-psychological rehabilitation. For in its pristine form, detrusio reflects a theology of salvation through penance, an issue entirely ignored by Foucault despite its overwhelming relevance. To take a particularly evocative (but by no means unique) example, the founders of Pennsylvania's Eastern Penitentiary encouraged inmates in 1844 to cherish their cells as "the beautiful gate of the Temple [cf. Acts 3:10] leading to a happy life and, by a peaceful end, to Heaven." In this sense, detrusio foreshadowed a crucial element of modern penology from a millennial distance. Indeed, Foucault went so far as to claim that modern prison systems (and insane asylums and hospitals) precipitated the birth of the soul as a locus of supervision and reform. His account portrayed (however sarcastically) the modern, "rational" penitentiary as the embodiment of a new desire to re-program individual or collective behavior. Once again, these words should resonate strongly with any student of monasticism's multi-faceted commerce with late-antique and medieval lay piety. For there was, arguably, no more influential model for lay penance throughout the Middle Ages than the monastic life, both the beacon of Christian perfection and the only pre-modern institution worthy of the designation "total."

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63. "Total institutions" is a category seminal framed by Erving Goffman, Asylums. Essays on the Social Situation of Mental Patients and Other Inmates (Garden City, N.Y., 1961) p. xiii.