

## Citation style

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fehlenden Einleitungen von Beispielen (u. a. 10, 43) und Wiederholungen innerhalb von Kapiteln (u. a. 12 und 13, 44 und 48) hinwegsehen. In Fragen der Buchkultur, der Frömmigkeitspraxis sowie des Wissens und der Bildung in Chorfrauenstiften wird diese methodisch vorbildliche Studie in Zukunft als nachahmenswert zu gelten haben. Die Autorin bietet eine ganze Reihe von Bezugspunkten und Anregungen für weitere Arbeiten.

Julia Bruch

John C. Wei, *Gratian the Theologian* (Studies in Medieval and Early Modern Canon Law 13), Washington DC 2016 (Catholic University of America Press), XVI + 353 pp.

John Wei has made an important contribution to Gratian studies. A seemingly simple and innocuous book title will be recognized by specialists in the field of medieval canon law as provocative in that it seems to take a stand on a century's-long debate: was Gratian more jurist or theologian? Wei largely disagrees with the positions of Rudolph Sohm, who famously argued for a sacramental reading of the *«Decretum»*, but he aims to highlight the theological aspects of Gratian's work and affirms the status of Gratian as a theologian in a qualified sense. At one point, Wei aptly describes Gratian as someone with a «jurisprudential orientation» and a «theological bent» (36). The majority of Wei's book is meant to highlight the way in which such a theological bent shaped certain portions of Gratian's work.

Wei divides his work into three parts set between an introduction and a conclusion followed by an appendix containing a short text extant in three manuscripts. Part I introduces Gratian and his work generally (chapter 1) and his usage of the Bible (chapter 2). Part II focuses on Gratian's writings on penance, discussing the historical background to penance in Gratian's day (chapter 3), Gratian's views on penance as expressed in distinctions 1–4 of his *«De penitentia»* (chapter 4), contemporary texts from Italy that demonstrate Gratian's interaction with and refutation of certain positions in debates of his day (chapter 5), and the way in which his interest in penance may have shaped the composition of C. 33 and C. 26 and the canon law of magic (chapter 6). Part III looks at Gratian's treatment of the sacraments and the liturgy, examining the place of sacraments in pre-Gratian canonical collections and then in the first recension of the *«Decretum»* (chapter 7) and the later additions to the *«Decretum»* regarding canonical regulations for the liturgy, many of which formed the entire *tertia pars* of the *«Decretum»*, known as *«De consecratione»* (chapter 8). Chapter 6 is largely speculative, as Wei himself admits. It would have been better to publish in a separate essay. The space devoted to chapter 6 could have been more fruitfully given either to expanding the section on biblical exegesis or to discussing other topics (e. g. the church and the power of the keys, predestination and grace, or angels, to name a few) that Wei does not discuss at all.

Building upon Anders Winroth's discovery of two main recensions of Gratian's *«Decretum»* preserved in extant manuscript, Wei studies with great care the text of Gratian's work in the earlier recension (what I call R1) while also comparing it to

its later textual development. Such attention to the development of the text yields fruit for considering the nature of Gratian's textbook at an earlier stage and, potentially, the objects of Gratian's particular intellectual interests. It also provides fodder for the continuing debate about whether Gratian, or the man responsible for the composition of the earlier version of the *«Decretum»*, should be considered the same man responsible for the later additions quickly disseminated throughout Europe. In Part III on the sacraments and liturgy, Wei argues that the redactors of the later recension (what I call R2, allowing for stages of development to the completed R2 in recensions R2a, R2b, etc.) had a different vision for the *«Decretum»*, that of composing a more comprehensive collection of canon law rather than a textbook aimed at reconciling opposing authorities on certain, select issues. The argument remains conjectural, however, for it is also conceivable that one man, Gratian, changed his mind during or after his teaching career and decided to re-shape his textbook into such a canonical collection or that he simply expanded his textbook into new areas over a long teaching career. Specialists in the field will continue to debate the issue, but Wei's book provides excellent material to be incorporated into and to deepen their analyses. Wei's book constitutes an important, and even groundbreaking, contribution in another regard as well. Whereas scholarship on early scholasticism has located key developments in northwestern France (Laon, Chartres, Reims, Paris) and has paid little attention to theological activity elsewhere, Wei's manuscript work opens a new area of research: Italy. One sentence collection of the 1130s, the *«Summa Sententiarum»*, is often attributed to an Italian, Bishop Odo of Lucca, whose work depends heavily upon Hugh of St. Victor. The sentence collections that Wei has discovered, however, and which survive largely in Italian and alpine manuscripts, have strong connections to the school of Laon. Wei's book focuses on sections of these works that have clear parallels to Gratian's *«De penitentia»* (*«Decretum»* C. 33 q. 3), but his research opens the door for more work on other parts of these texts and on many more texts that must survive in Italian libraries but have not yet received scholarly attention. Such research might lead to a greater understanding of transalpine communication, intellectual stimuli, and education in the first half of the twelfth century. If so, the research should yield a clearer picture about the emerging scientific disciplines of theology and canon law and their shared origins and methodology. For too long, scholars have asserted that scholastic methodology originated in theology *or* in canon law; more fruitful might be an approach that highlights a common intellectual climate with new approaches to the Christian tradition as a whole, in both its canons and its sacred texts.

Wei's book possesses other strengths. On certain issues, Wei engages an impressive array of scholarship in German, Italian, and Spanish while also building his arguments on manuscript research. (His research on the development of Gratian's text is one-sided, however, and he frequently treats certain issues as definitively decided when in fact they remain debated in scholarly circles; he also does not thoughtfully engage opinions contrary to his own. Examples include the issues of the existence of two, and only two, clear recensions; dating the recensions; and the nature of the manuscript Sankt Gallen, Stiftsbibliothek 673.) Future scholars can benefit from his

treatment of sacramental issues. Given the *«Decretum»*'s lack of systematic organization, one can struggle to locate the relevant texts on a particular issue. Wei's wading through the *«Decretum»* and dividing its content into material from earlier and later recensions will be of immense help to those researching both the sacraments and the liturgy in canon law.

That Wei has written an important book for Gratian studies is not in doubt; that he has written a masterful one is. This reviewer's opinion is that the definitive work on the theological aspects of Gratian's *«Decretum»* remains to be written. I would like to focus my critique in one arena, that of labels and categorization, or how scholars speak about law and theology, canonists and theologians, in the twelfth century. On occasion, Wei displays subtlety in interpretation (e. g. his comment about Gratian's *«jurisprudential orientation»* and *«theological bent»* referenced above). At other times, that subtlety is lacking, and such a lack leads to an unfortunate mischaracterizing of Gratian's work and his times. Wei devotes a paragraph in his introduction to explaining what he means by calling Gratian a theologian, acknowledging that the academic disciplines of theology and canon law had not yet developed but asserting that Gratian *«produced much that we would today consider theology»* (3). The qualification is indeed needed, given Wei's chosen title, but the qualification withers under the weight of Wei's repeated references to Gratian as a certain type of theologian – he was a *«penitential theologian»* but *«not much of a sacramental or liturgical theologian»* (14; cf. pp. 102, 229, 230, 295, 300). There were no disciplinary boundaries yet, but Wei speaks of *«a crossing of disciplinary boundaries»* (100). There is no theology as an academic discipline, let alone theological sub-disciplines, yet Wei speaks of *«penitential theology»* (148, 190), *«sacramental theology»* (244, 232), *«eucharistic theology»* (246), and *«liturgical theology»* (245, 295). It would be far better simply to speak about the evidence for Gratian's teaching on penance, the sacraments, and the liturgy. He was not interested in sacramental theology any more than he was interested in sacramental law, for the simple reason that those disciplines did not yet exist; similarly he was no more a penitential theologian than he was a liturgical one, for the same reason. My critique extends beyond mere semantics; Wei criticizes the mid-twentieth century scholarship that did not accept Gratian's authorship of *«De penitentia»* on the grounds that it was too theological, but he operates under the same categories. If a manuscript should be discovered that attributes a treatise on the liturgy to Gratian, should it be deemed unauthentic merely because a Gratian scholar determined that Gratian was not much of a liturgical theologian? No, and yet these types of categories breed such rash assessments.

The usage of these categories and terminology inhibits scholarship on the rich intellectual climate of the twelfth century rooted in the Christian scriptures and tradition. An example appears in Wei's introduction, where he attempts to show that theology and canon law were becoming two academic disciplines in the decades immediately following Gratian's work. This might be the case, but one has to read the sources correctly and represent them, and thus the historical development, accurately. One source he mentions is Peter of Blois the Younger's *«Speculum iuris canonici»* (c. 1180). Wei says that Peter wrote that *«theologians concern themselves*

with natural law and Mosaic, prophetic, evangelical, and apostolic law (that is, the law found in the Bible), whereas canonists concern themselves with canon law in the narrow sense of the term» (9–10). Such language represents an imposition of later categories upon a Latin text that says nothing of the sort. Peter's text notes that diverse types of institutions have arisen according to diverse states and time periods of humanity. The first five listed are *lex naturalis*, *Mosaica*, *prophetica*, *euangelica*, and *apostolica*. Peter does not say that these are the purview of theologians but rather that «to discuss them belongs to theological consideration» (*theologicæ considerationis est de quinque primis disserere*; cited Wei, 10 n. 32. Edition: «Petri Blesensis opusculum de distinctionibus in canonum interpretatione adhibendis sive, ut auctor voluit, speculum iuris canonici», ed. T. A. Reimarus, Berlin 1887, 6). Peter, then, will devote his attention to the *originalem causam et occasionem* of the sixth kind of law, namely, *lex canonica*. The point for Peter is not that there are two different disciplines with two different subject matters; the point is that human history is divided into six eras, and the regulation of the sixth era belongs to canon law. Investigation into the first five eras is «theological» because those eras are recounted in divine scriptures and governed by what can be termed various forms of divine law. *Ius canonicum* emerged only out of necessity after, by God's grace, the church and Christian faith spread, requiring administration in an era after the closing of divine scriptures. Scripture still holds primary authority for such administration, but additional *canones* were needed for determining cases and managing ecclesiastical business (ibid., 7). *Ius canonicum* is here an institution and part of a continuous history of God's relationship with humanity, not an academic discipline, and nowhere does Peter refer to himself or others as «canonists» as Wei's characterization of the passage would lead one to expect. In short, speaking with anachronistic labels obscures the meaning of texts from the period.

Unfortunately, Wei's book repeats such labels frequently, resulting in less nuanced analysis and synthesis than might be desired. He concludes that Gratian «tried to construct a new science of canon law on a theological but non-sacramental basis» (301). Wei seems to read Gratian both as having a notion of canon law as a discipline and as intentionally founding a new version of it; other scholars today prefer to see him as a teacher who was a transitional figure in the history of canon law and the development of a canonistic discipline, but unintentionally so. Moreover, for all his references to sacramental theology, while he notes the variety in understanding *sacramentum* before and during Gratian's time, Wei never establishes clearly what counts as sacraments for his evaluation. If Gratian is to be assessed as «not much of a sacramental theologian,» why does marriage not count? Or penance? Or eighty distinctions devoted to holy orders? Or does Wei simply mean to make the point that the R1 «Decretum» nowhere treats «theoretical questions concerning orders, baptism, confirmation, and the eucharist» (244)? If Wei could have avoided such labels and the types of questions and concerns that derive from them, his book would have far more significance for future scholarship. As it is, it remains important, and Gratian scholars and those interested in twelfth-century intellectual developments will find much of use in it.

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