

## *The Peace of God and its legal practice in the Eleventh Century*

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The "Peace of God" (*Pax Dei*) was an institution established by the Church and the lay power in an effort to limit private conflicts—a movement expanding progressively into the whole of Western Europe during the eleventh century.<sup>1</sup> The Truce of God (*Treuga Dei*) refers specifically to the periods of peace, i.e. Feast days fixed by the liturgical calendar.<sup>2</sup> Begun in Charroux (Aquitaine) in the year 989, recent researchers (above all Dominique Barthélemy) have pointed out the relationship between the Peace of God and the year 1000. The title of Barthélemy's book is clearly chosen with

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<sup>1</sup> Reinhold Kaiser, "Gottesfrieden", *Lexikon des Mittelalters*, Robert-Henri Bautier et al. (ed.), vol. 4, Munich/Zürich, 1989, col. 1587-1591; François-Olivier Touati, *Vocabulaire historique du Moyen Âge (Occident, Byzance, Islam)*, Paris, 1997, pp. 207 and 271.

<sup>2</sup> H.E.J. Cowdrey, "The Peace and the Truce of God in the Eleventh Century", *Past and Present* 46, (1970), pp. 42-67; Roger Bonnaud-Delamare, "Les institutions de paix en Aquitaine au XI<sup>e</sup> siècle", *Recueils de la Société Jean Bodin*, vol. XIV : La Paix, Bruxelles, 1961, pp. 415-487; Hans-Werner Goetz, "La paix de Dieu en France autour de l'an mil: fondements et objectifs, diffusion et participants", *Le roi de France et son royaume autour de l'an Mil*, Michel Parisse/Xavier Barral i Altet (dir.), Paris, 1992, pp. 131-145; Thomas Renna, "The idea of peace in the West, 500-1150", *Journal of Medieval History*, (1980), pp. 143-167.

The extension of the Peace rules in more and more bishoprics and counties can be regarded as a step towards an harmonisation of penal law. See our monography "Le concile de Charroux et la Paix de Dieu : un pas vers l'unification du droit pénal au Moyen Âge ? ", *Bulletin de la Société des Antiquaires de l'Ouest* = B.S.A.O. 12, (1998), 5e série, pp. 1-58 ; id., "Pau e Treva de nostre Senyor in den Usatges de Barcelona: Frieden durch rhetorische Formeln?", *Katalanisch in Geschichte und Gegenwart*, C.-D. Pusch (ed.), Tübingen, 2001, pp. 65-76 (DeLingulis - European Studies on Lesser Used Languages 1).

this aim in mind, *L'an mil et la paix de Dieu*.<sup>3</sup> As a result of the passage of the year 2000, the year 1000 was at the centre of numerous publications. In addition, researchers are interested in discovering whether or not the Peace of God had a practical impact—particularly in limiting the *malae consuetudines*, the evil customs.<sup>4</sup> Initially these two aspects may not seem to belong together. But the examination of the second aspect (i.e. the application of the Peace rules) will reveal that some of the recent attempts of historians who would devalue the function of the Peace of God as a means to replace a certain state of order, would appear to be misconceived.

I. Transition to the year 2000 seems to have justified the reopening of the millennium debate in medieval historical studies. The “Journées romanes” in Saint Michel de Cuixà in July 2000 addressed this topic, “L'an mil. Fin d'un monde ou renouveau?”.<sup>5</sup> Further, we can quote the titles of three books, all published in 1999, namely *L'an mil et la paix de Dieu*, *La France chrétienne et féodale, 980-1060* written by Dominique Barthélemy, *L'Europe au siècle de l'an Mil* by Monique Bourin and Michel Parisse and *Les fausses terreurs de l'an mil : attente de la fin des temps ou approfondissement de la foi ?*, whose author is Sylvain Gouguenheim. An article by Thomas Head, entitled “The Development of the Peace of God in Aquitaine (970-1005)”, has meticulously summed up the most important aspects of that institution.<sup>6</sup>

In conformity with many historians we feel that the year 1000 cannot simply be reduced to a single year for separating periods in time, but represents a historical movement corresponding to the life of a whole generation

<sup>3</sup> Paris, 1999.

<sup>4</sup> Jean-François Lemarignier, “La dislocation du ‘pagus’ et le problème des ‘consuetudines’ (Xe - XIe siècles)”, *Mélanges d'histoire du Moyen Age, dédiés à la mémoire de Louis Halphen*, Paris, 1951, pp. 401-410; Olivier Guillot, “Consuetudines, consuetudo : quelques remarques sur l'apparition de ces termes dans les sources françaises des premiers temps capétiens”, *Mémoires de la Société pour l'histoire du droit des anciens pays bourguignons, comtois et romands*, 1983, pp. 21-48; Christian Lauranson-Rosaz, “Les mauvaises coutumes d'Auvergne (fin Xe - XIe siècle)”, *Annales du Midi* 192, (1990), pp. 557-585; Elmar Wadle, “Landfriedensrecht in der Praxis” and Wolfgang Sellert, “Geiselnahme und Pfändung als Gegenstand spätmittelalterlicher Landfrieden”, two articles issued of the colloquium on the Peace of God, held in Fürstfeldbruck (Germany) in March 1999, published by Arno Buschmann/Elmar Wadle (ed.), *Landfrieden. Anspruch und Wirklichkeit*, Paderborn, 2001, pp. 73-94 and pp. 231-252 (Rechts- und Staatswissenschaftliche Veröffentlichungen der Görres-Gesellschaft, Neue Folge, 98)

<sup>5</sup> We quote the titles of just three conferences: Michel Zimmermann, “L'an mil, commencement du Moyen Age ?”, Xavier Barral i Altet, “L'an mil n'a jamais existé en architecture”, Eduard Carbonell i Esteller, “L'an mil. Fin d'un monde ou renouveau. La peinture en Catalogne”.

<sup>6</sup> Published in *Speculum* 74, (1999), pp. 656-686; see also the collection of articles edited by Thomas Head and Richard Landes, *The Peace of God. Social Violence and Religious Response in France around the Year 1000*, Ithaca-London, 1992.

—a generation which shared the experience of being a millennium generation. Thus, Barthélemy correctly chose the period from 980 to 1060. This generation was marked by a great religious “movement” with several key dates and a high point which came between 1020 and 1030. We have record of numerous assemblies of the Peace of God, of heresy, of pilgrimages to Jerusalem and of veneration of saints and relics. We can, in short, speak of this generation as participating in a millennium zeitgeist.<sup>7</sup> Historiography concerning this subject abounds from the nineteenth century onwards to the present. But, according to the period and the author’s ideology, interpretations are starkly different. Although they are many, historically, three main schools of thought can be distinguished.

First, one can interpret the Peace of God as a reaction to the changes provoked by the social crises and terrors, violent acts, etc. Since the sixteenth century, Raoul Glaber has shaped historians’ gloomy perceptions of this period.<sup>8</sup> Conditions were so unbearable that most people readily gave their oaths to the Peace canons, aiming at putting an end to their plight. The Peace of God was not only a solution to these crises but, above all, a medium to put an end to the emptiness of a public order that existed no longer. Achille Luchaire’s description, sufficiently known, absorbs this image from the society without a State:<sup>9</sup>

“Remplaçant l’Etat qui n’existait plus, elle «l’Eglise» devait travailler sans relâche à refréner les instincts violents de la classe noble dont la guerre était l’occupation, le plaisir et le fléau. Pour remplir cette grande mission sociale, le clergé oublia ses propres dissensions. Uni devant les laïques, toujours prêts à se dévouer et à lutter contre le désordre, il créa les institutions de paix”.

To illustrate the second school of thought, it will be useful to review certain key works addressing the subject of the breakdown of public order, the struggle for the law (*Kampf ums Recht*) and the restoration of public peace. Ludwig Huberti’s thesis about the sources of the Peace of God in France concentrates upon its significance for the restoration of public order.<sup>10</sup> In 1964, Hartmut Hoffmann returned to Huberti’s questions in his book *Gottes-*

<sup>7</sup> Barthélemy, *L’an mil*, pp. 13-14; id., “La paix de Dieu dans son contexte (989-1041)”, *Cahiers de Civilisation Médiévale* 157, (1997), p. 4.

<sup>8</sup> Raoul Glaber, *Histoires*, M. Arnoux (ed.), Turnhout, 1996, IV, 14, p. 248.

<sup>9</sup> Achille Luchaire, *Les Premiers Capétiens (987-1137)*, E. Lavis (dir.), *Histoire de France illustrée, depuis les origines jusqu’à la Révolution*, vol. II, Paris, 1911, p. 133.

<sup>10</sup> *Studien zur Rechtsgeschichte der Gottesfrieden und Landfrieden*, vol. I. Die Friedensordnungen in Frankreich, Ansbach, 1892.

friede und Treuga Dei.<sup>11</sup> According to Georges Duby the order in “La Maison de Dieu” and the distribution of power between the three orders were involved. In his book, *Les trois ordres ou l’imaginaire du féodalisme* (1978), he emphasises the fact that the Peace of God sought fundamentally to reshape society by redefining the relationships between its three component elements, namely those who fought, those who prayed and those who worked. Especially based on Raoul Glaber’s testimony, other historians have developed a second crucial aspect of the Peace of God —the religious mass movement with the laymen taking the initiative for the peace.<sup>12</sup> Richard Landes refuses to view the Peace as a mass movement, emphasising instead its evolution from an initially lay movement towards an institutionalised peace on the Carolingian model.<sup>13</sup>

The third school, the most recent, sees in the Peace of God no particularly new aspects which warrant attention. There was merely an intensification of the means, methods and measures already known and applied in former times. Dominique Barthélemy summarizes as follows:<sup>14</sup>

“Les conciles de paix des évêques n’y sont pas une nouveauté radicale, ni leurs décrets, ni leur usage social des reliques, ni le mythe de l’apaisement de Dieu après ses avertissements terribles. Tout cela plonge mille racines dans l’Antiquité tardive et le Haut Moyen Age. L’épiscopat des Gaules a déjà orchestré, avant la paix de Dieu, beaucoup de fêtes, de dramaturgies et de cérémonials de la paix, tous deux sous la menace d’un véhément anathème et par l’attrait d’une grande amnistie, font

<sup>11</sup> *Schriften der MGH*, 20, Stuttgart, 1964 (reed. in 1986). A good summary gives Elmar Wadle, “Die Entstehung der öffentlichen Strafe - Klassische Vorstellungen und neue Fragen”, *Perspektiven der Strafrechtsentwicklung*, Heike Jung et al. (ed.), Baden-Baden, 1996, pp. 9-30; id., “Gottesfrieden und Landfrieden als Gegenstand der Forschung nach 1950”, *Funktion und Form. Quellen- und Methodenprobleme der mittelalterlichen Rechtsgeschichte*, Karl Kroeschell/Albrecht Cordes (ed.), *Schriften zur Europäischen Rechts- und Verfassungsgeschichte*, no. 18, Berlin, 1996, pp. 63-91.

<sup>12</sup> “L’an mil après la Passion fut celui qui suivit ce désastre. Par la bonté et la miséricorde divines, les nuées et les tempêtes s’apaisèrent ... Alors en Aquitaine, les évêques, les abbés et les autres hommes de religion rassemblèrent tout le peuple en des conciles. On y porta beaucoup de corps saints, et d’innombrables châsses contenant de saintes reliques...” See Raoul Glaber, *Histoires*, IV, 14, p. 248; Georges Duby, *Les trois ordres*, pp. 169-174; Jean Musy, “Mouvements populaires et hérésies au XI<sup>e</sup> siècle en France”, *Revue historique* CCLIII, (1975), pp. 33-76; Klaus Arnold, *Mittelalterliche Volksbewegungen für den Frieden*, Stuttgart/Berlin/Köln, 1996, pp. 5-18 (Beiträge zur Friedensethik 23).

<sup>13</sup> “La vie apostolique en Aquitaine en l’an mil. Paix de Dieu, culte de reliques et communautés hérétiques”, *Annales ESC* 46, (1991), pp. 573-593, particularly p. 587.

<sup>14</sup> Barthélemy, *L’an mil*, p. 40.

une vraie nouveauté”.

According to him, only two things are new, namely the ceremonies of peace accompanied by intense condemnation (anathema), and new spiritual benefits (remission of sins). Thomas Head seems to arrive to a similar conclusion. He argues that the means by which the bishops responded, and the terminology they used to describe the abuses, were new.<sup>15</sup>

Barthélemy<sup>16</sup>, as well as Sylvain Gougenheim,<sup>17</sup> refuse to allow any kind of cataclysmic (eschatological) atmosphere or mood, no “feudal revolution”, neither social crises nor mutation. Their view stands, in fact, in rough opposition to the opinion of scholars such as Chris Wickham, Jean-Pierre Poly and Thomas Bisson.<sup>18</sup> Many authors have wanted to eradicate a pessimistic vision of the year 1000, a vision emphasised by earlier historians. Pierre Riché's book, *Les Grandeurs de l'an mille*, rejects this eschatological interpretation. Similarly in the economic sphere historians now emphasise continuity over change. In the chapter, “L'Europe des marchands”, of their book, *L'Europe de l'an Mil*, Monique Bourin and Michel Parisse conclude in the same way:<sup>19</sup> “Un nouveau marchand de l'an Mil ? De nouveaux commerces et des villes transformées? Sans doute rien de totalement radical. Pourtant le sentiment d'une accélération”.

Even if we must not exaggerate one or the other aspect of the Peace of God, Raoul Glaber's testimony continues to be crucial for the millennium thesis. The German historians speak about an *Endzeiterwartung* to found their *Chiliasmusthese*.<sup>20</sup> Hans Werner Goetz has convincingly characterised the circumstances of the millennium generation, in the formulation “Umordnung statt Unordnung”, which can be translated, without abandoning the play on words, as “Change of the order, not disorder”.<sup>21</sup>

During this period of reordering, the Peace of God cannot be reduced to the idea of the millennial fears, neither can it be a simple intensification of

<sup>15</sup> Head, “The development”, p. 685.

<sup>16</sup> *La mutation de l'an mil a-t-elle eu lieu ?*, Paris, 1997.

<sup>17</sup> *Les fausses terreurs de l'an mil*, p. 28.

<sup>18</sup> Jean-Pierre Poly/Eric Bournazel, *La mutation féodale, Xe-XIIIe siècles*, Paris, 1991; Jean-Pierre Poly, “Le commencement et la fin. La crise de l'an mil chez ses contemporains”, *Georges Duby. L'écriture de l'Histoire*, Claudie Duhamel-Amado/ Guy Lobrichon (ed.), Brussels, 1996, pp. 191-216 (Bibliothèque du Moyen Age 4); Thomas Bisson, “The 'Feudal Revolution'”, *Past and Present* 142, (1994), pp. 6-42; Timothy Reuter, Chris Wickham, Thomas Bisson, “Debate: The 'Feudal Revolution'”, *Past and Present* 155, (1997), pp. 177-225.

<sup>19</sup> p. 200.

<sup>20</sup> Johannes Fried, “Endzeiterwartung um die Jahrtausendwende”, *Deutsches Archiv für Erforschung des Mittelalters* 45, (1989), pp. 443-473.

<sup>21</sup> Hans Werner Goetz, “Die Gottesfriedensbewegung im Lichte neuerer Forschungen”, *Landfrieden. Anspruch und Wirklichkeit*, Buschmann/Wadle (ed.), pp. 31-54.

methods. If the Peace has now its own role as a legal source, being applied practically, it is more than a simple ceremony. It is a means of negotiating and keeping peace for the resolution of social conflicts.

II. The idea of the "practical meaning" has been put forward by Barbara Rosenwein. In her book entitled, *Negotiating Space. Power, Restraint, and Privileges of Immunity in Early Medieval Europe*, published in 1999, she mentions the Peace spaces (such as the thirty step zone) and the atria which were special pacified areas in the eleventh century in France and in Catalonia.<sup>22</sup> On the face of it, the peace had its practical impact in the *convenientiae*. Many authors cite examples for this institution, aiming at restoring and maintaining the peace. The mixture of accomplishments and setbacks experienced by the bishops of Aquitaine points to the fact that the Peace councils were part of a complex set of negotiations and compromises, and thus provided contemporary norms of conflict-resolution.<sup>23</sup> Thomas Bisson came to the conclusion that the legislation of Montpellier of 1215 should be regarded as standing near the end of a long tradition of diocesan peace measures, measures which were as old as the Peace of God itself.<sup>24</sup> The Montpellier programme provided for sworn commitments to the peace in the dioceses, with overseers or guardians of the peace (*paciarri*), local armies against peace breakers, and other procedures and penalties for violations.

Specifically, Stephen White has shown the acts of mediation between monks for the Loire region;<sup>25</sup> Stéphen Weinberger underlined the intervention of the Church in the theme of repartition of the land.<sup>26</sup> The Truce of God tended to increase the power of the Church, in judging and arbitrating conflicts. In addition, it is important to add the *Conventum*, as an excellent example of the attempts to negotiate peace in Aquitaine about 1030. The *Conventum* deals with the conflict between Hugh IV of Lusignan and his Lord

<sup>22</sup> Ithaca, pp. 168-169; Aymat Catafau, "Les celleres du Roussillon", *Histoire et archéologie des terres catalanes au Moyen Age*, Philippe Sénac (ed.), Perpignan, 1995, pp. 163-185; Cécile Treffort, "Consécration de cimetière et contrôle épiscopal des lieux d'inhumation au Xe siècle", *Le sacré et son inscription dans l'espace à Byzance et en Occident – études comparées*, Michel Kaplan (dir.), Paris, 2001, pp. 291-293 (*Byzantina Sorbonensia* 18).

<sup>23</sup> Thomas Head, "The Development of the Peace of God in Aquitaine (970-1005)", *Speculum* 74, (1999), p. 686.

<sup>24</sup> *Assemblies and Representation in Languedoc in the thirteenth Century*, Philadelphia, 1964, p. 103; as well "The organized Peace in Southern France and Catalonia (c. 1140 - c. 1233)", *Speculum* 53, (1978), pp. 460-478.

<sup>25</sup> "Feuding and Making Peace in the Touraine around the Year 1000", *Traditio* 42, (1986), pp. 195-263.

<sup>26</sup> "Les conflits entre clercs et laïcs dans la Provence du XIe siècle", *Annales du Midi* XCII, (1980), pp. 269-279.

William V the Great, Count of Poitou, and was compiled to justify Hugh's formal claim to property illegally seized.<sup>27</sup>

We can distinguish three different applications of the Peace rules. The first embraces all forms of negotiation of spaces (atria, XXX-step-zone, asylum), as well as the *convenientiae* and other kinds of contracts.<sup>28</sup>

The second includes cases of practical interest, where the Peace as a legal source is explicitly mentioned.<sup>29</sup> Such cases rely, as in the first application, directly on the Peace of God. The following examples illuminate the role of The Peace as a legal foundation.

The Bishop of Arras, Lambert (1093-1115), complained in a letter<sup>30</sup> to the Countess Clementia of Flanders, that some pilgrims of his diocese had been attacked and robbed by a certain *praepositus* G., when returning from a pilgrimage to Rome. In his position as judge, the Bishop excommunicated the delinquent (justice of the ecclesiastical arm) and asked the Countess to sentence "in according to the Peace rules" (*secundum pacem*) "her" *praepositus*. Should the restitution of the pilgrims' goods not be made, the Bishop would punish (*in bannum mitemus*) the criminal's castle "in according to the Peace statutes" (*statuta pacis*). This case needs the intervention of the two branches of justice, the Bishop having the jurisdictional power in the church and the Countess exercising the secular one. The sentence pronounced in

<sup>27</sup> Georges Beech/Georges Pon/Yves Chauvin, *Le Conventum (vers 1030). Un précurseur aquitain des premières épopeés*, Genève, 1995, pp. 24 and 141-146; Jane Martindale, "Conventum inter Guillelmum Aquitanorum comitem et Hugonem Chiliarchum" and "Peace and War in Early Eleventh-Century Aquitaine", *Statuts, Authority, and Regional Power: Aquitaine and France, 9<sup>th</sup> - 12<sup>th</sup> Centuries, Variorum Collected Studies*, London, 1997.

<sup>28</sup> H.E.J. Cowdrey, "The Peace and the Truce of God in the Eleventh Century", *Past and Present* 46, (1970), pp. 42-67; Jaques Bousquet, "Le Traité d'Alliance entre Hugues, Comte de Rodez, et les Consuls de Millau (6 juin 1223)", *Annales du Midi* LXXII, (1960), pp. 25-42; Roger Bonnaud-Delamare, "La légende des Associations de la Paix en Rouergue et en Languedoc au Début du XIII<sup>e</sup> siècle (1170-1229)", *Bulletin Phil. et Hist. du Comité des Travaux Historiques et Scientifiques* (1936-1937), pp. 47-78; Georges Molinié, *L'organisation judiciaire, militaire et financière des associations de la Paix. Etude sur la Paix et la Trêve de Dieu dans le Midi et le Centre de la France*, PhD dissertation, Toulouse, 1912.

<sup>29</sup> Examples chosen by Hartmut Hoffmann, *Gottesfriede*, pp. 150-151; further examples with references to the Peace, P.L. 162, col. 677-678 (letter LXXVI); col. 680-681 (letter LXXXVII); col. 683 (letter XCVII); col. 685 (letter CVI); col. 698-700 (letter CXLIII).

<sup>30</sup> *Patrologia Latina* (P.L.), J.-P. Migne (ed.), Paris, 1854, vol. 162, col. 659, letter 31: "Nobilitati vestrae notum fieri volumus quosdam peregrinos parochianos nostros Roma venientes omnes extraneas terras quiete transisse. Tandem in vestra terra pervenientes a praeposito vestro G. apud Batpalmas depraedati sunt. Nos vero ministerium quod ad nos pertinet facere volentes, mandavimus ei ut libere vel per fidejussionem quod injuste in pace abstulerat redderet. Illum hoc facere renuentem in Coena Domini excommunicavimus. Nunc autem misericordiam vestram exoramus ut secundum pacem istiusmodi hominem tractetis et peregrinis sua reddi faciatis. Quod si redditum non fuerit, nos statuta pacis mutare non valentes, totum castrum in quo hoc facinus et alia multa facinora acta sunt in bannum mitemus. Vale."

favour of the pilgrims is directly based on the Peace, the rules for which provide for the return of that which had been taken illegally. This concrete example could stand for the very many attacks on pilgrims which are known to have occurred and which were subjects to the canons of the Peace of God.<sup>31</sup>

Another case evoking the Peace concerns wine stolen from some citizens. Robert de Péronne brings an action against Arnulf and Radulf de Bapaume, who stole the wine, as he wanted the Bishop to intervene and make restoration of the goods.<sup>32</sup>

Finally, a very pertinent case from the same time<sup>33</sup> provides information about the practical significance of the Peace rules. A castellan, Gonfrid de Lens, entered as a trespasser an atrium of a church and took goods from persons being protected within this zone. The Bishop of Arras had decided that this act was against the Peace rules, and threatened the trespassers with excommunication, *iuxta constitutionem libertatis et pacis atriorum et terrarum sanctuarii*, should these goods not be returned within the following fifteen days.<sup>34</sup> He not only relied on other king's examples (such as Ozias<sup>35</sup> and Nabuchodonosor<sup>36</sup>) and on the apostle Paul<sup>37</sup>, but evidently applied the ca-

<sup>31</sup> F. Garrisson, "A propos des pèlerins et de leur condition juridique", *Festschrift/Mélanges Gabriel le Bras, Etudes d'histoire du droit canonique*, Paris, 1965, t. II, p. 1178-1180; Hoffmann, *Gottesfriede*, p. 151.

<sup>32</sup> P.L. 162, col. 653, letter 16:

"...ut his burgensibus meis cum vino ad Atrebatum tendentibus, quibus Arnulfus et Radulfus de Batpalmis in praeterita hebdomada, pacis soluto foedere, vinum suum abstulerunt, aut sua reddere faciatis, aut vestrum officium impleatis. Valet."

<sup>33</sup> P.L. 162, col. 662-663, letter 40:

"Pervenit ad synodum nostram gravis clamor de vobis quod atrium de Lothes et terram ad ejusdem atrii ecclesiam pertinentem infregeritis, et homines, licet rei justitiae vestrae fuerint, ut dicitur, inde nobis inconsultis, quod nullo modo vobis nec alicui terrena potestati facere licet, contra libertatem sanctae Dei Ecclesiae matris vestrae, contra excommunicationem atriorum et terrarum sanctuarii, contra pacem juratam, pro sola voluntate vestra res illorum vobis retinueritis. Unde multum miramur vos tam grande malum in partibus nostris fecisse, quod facere non soletis, cum in terra nativitatis vestrae semper legalem et bene modestum vos fuisse constiterit..."

<sup>34</sup> "Propterea vero synodalem suspendimus a vobis excommunicationis sententiam, quia vos et hujus operationis nequam magis desideramus humiliter salvari quam contumaciter et superbe damnari. Si igitur infra quindecim dies ab hodierna die visis litteris nostris juxta constitutionem libertatis et pacis atriorum et terrarum sanctuarii satisfacere Deo et nobis, quod absit, nolueritis, nos Salvatore omnium adjuvante, et sanctorum canonum severitate insinuante, et in eos quos jam vocavimus et bannivimus et in defensores eorum excommunicationem facere non tardabimus. Vale." P.L. 162, col. 663.

<sup>35</sup> "Scire volumus vos quia Ozias rex Israel percussus est a Domino lepra perpetua pro eo quod officium pontificatus sibi usurpare praesumpsit." P.L. 162, col. 662.

<sup>36</sup> "Similiter et Nabuchodonosor rex Babyloniae quia non dedit gloriam Deo, creator omnium Deus duram et extra societatem humanam per septem annos sibi ab eo accepit vindictam." P.L. 162, col. 662-663.

<sup>37</sup> "Quia igitur haec et quaecunque scripta sunt juxta apostolum Paulum ad nostram doctrinam



nons of a council held in Soissons by Rainald I of Reims (1083-1096). This Council provided for protection of the atria.<sup>38</sup> This is an example of the characteristics of both groups, the atrium as a qualified Peace institution, and the Peace canons that were not respected. The Peace had become a viable legal source, for the restitution of stolen goods.

Nonetheless, we should not be content with these examples as being undoubtedly influenced by the Peace canons, which were a proper legal source serving as justification for a restitution for trespassing and theft. Examples of a different character are also available. They make no references to the Peace as pronounced, but are seemingly influenced by the Peace councils.

Dominique Barthélemy quotes, from the cartulary in Béziers, two examples of the application of the *Treuga Dei*:<sup>39</sup> A Raimond Bliher and his sons, who had failed twice at the ordeal, were required, in an arbitrated settlement, to forfeit a portion of their land instead of the regular punishment. Another, Pierre Riculf, on a Friday in Advent—a day when there was a *Treuga Dei*, a peace period in accordance with the liturgical calendar, confessed to having murdered a man. The canons of Saint Nazaire, in Béziers, condemned him to an exile of seven years. However, he managed to be granted a pardon, because he could discharge his punishment by the donation of a piece of his territory for the benefit of the monastery.

Other researchers have analysed the practical meaning of the Peace of God in Northern France and Germany.<sup>40</sup> Elmar Wadle, in his article "Landfriedensrecht in der Praxis", quotes an example of a broken Landfriede.<sup>41</sup> When Lothar III was Emperor, a knight (miles) confessed to having broken the peace. He had been defeated in a duel and decided to become a monk, donating a piece of his land to the monastery. Berthold von Zwiefalten reports in his Chronicle, the following: *Temporibus Lotharii imperatoris*

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scripta sunt, per praesentes litteras nostras ad correctionem salutis vestrae in praesentia nostra vos invitamus, et eos qui vobis in tam perverso facto cooperatores fuerunt." *P.L.* 162, col. 663.

<sup>38</sup> *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Germanistische Abteilung 12, (1891), 113-115; Hoffmann, *Gottesfriede*, pp. 157 and 186-188; Pierre Timbal, *Le droit d'asile*, PhD dissertation, Paris, 1939.

<sup>39</sup> J. Rouquette (éd), *Cartulaire de Béziers*, 1918, no. 79 and 76; Barthélemy, *L'an mil*, pp. 520-521.

<sup>40</sup> Reinhold Kaiser, "Selbsthilfe und Gewaltmonopol. Königliche Friedenswahrung in Deutschland und Frankreich im Mittelalter", *Frühmittelalterliche Studien* 17, (1983), pp. 55-72; id., "Verbrechen und Strafe in Nordfrankreich um 1100. Zwei Wundererzählungen des Abtes Gisbert von Nogent (gest. um 1125) und Hermann von Tournai (gest. 1147/48)", *Ecclesia et regnum. Beiträge zur Geschichte von Kirche, Recht und Staat im Mittelalter*, Festschrift Franz-Josef Schmale, Bochum, 1989, pp. 98-109; id., *Bischofsherrschaft zwischen Königtum und Fürstenmacht. Studien zur bischöflichen Stadtherrschaft im westfränkisch-französischen Reich im frühen und hohen Mittelalter*, Bonn, 1981 (Pariser Historische Studien 17).

<sup>41</sup> "Landfriedensrecht in der Praxis", *Landfrieden. Anspruch und Wirklichkeit*, Buschmann/Wadle (ed.), pp. 89-92.

*pacifici per totum pax composita et sacramento est confirmata*. In this way he makes reference to a Landfriede as a legal source, probably the result of the Peace (*Landfriede*) in 1135.

In addition to its role in the restitution of damages, the Peace can also be inferred in other cases where no peace rule is quoted (such as *statuta pacis* or the *atria*). It is thus possible to identify the use of specific canons of the Peace of God in particular cases and to relate that to the abstract programme of the Peace Councils.

Pursuing this methodology, it is convenient to start the analysis with Charroux itself; the places where Peace assemblies had been held after 989 (Poitiers, Le Puy, Limoges etc.) are put aside and wait for a special examination. The reason is obvious, Charroux was the first council of Peace in 989<sup>42</sup> and had been imitated in France and elsewhere.<sup>43</sup> Its canons were present in the whole eleventh century, the century of the "legal emptiness".<sup>44</sup>

III. Our object is to examine that period after the Peace canons in 989 had been proclaimed; for we know in the case of Charroux, that the first customary law was not promulgated until 1177 (a second one in 1250).<sup>45</sup> Between 989 and 1147 we might find traces of the Peace of God in Charroux, for it was in that period that an application of the Peace rules could have occurred. The cartulary of Charroux contains acts of violence against the clergy and the abbey of Charroux, as well as declarations by nobles who returned goods which previously had been owned by the abbey. Therefore, the following cases are interesting because they happened after the Peace councils of Charroux (989), Poitiers (1011-14) and Limoges (994, 1028, 1031, 1033) and, on the other hand, before the fixation of the customary law of Charroux (about 1177).

<sup>42</sup> Robert Favreau, "Le concile de Charroux de 989", *Bulletin de la Société des Antiquaires de l'Ouest* (= BSAO) 3, (1989), 5<sup>e</sup> série, pp. 213-219; Hans-Werner Goetz, "La paix de Dieu en France autour de l'an Mil", p. 131; Christian Lauranson-Rosaz who insists on the first Peace assembly in Le-Puy-en-Velay : L'Auvergne et ses marges (Velay, Gévaudan) du VIIe au XIe siècle : La fin du monde antique?, Le-Puy-en-Velay, *Les Cahiers de la Haute Loire*, 1987, pp. 420 ssq.

<sup>43</sup> Thomas Gergen, "Texttradition der Usatges de Barcelona am Beispiel von pau e treva und den XXX passes (sagreres) der katalanischen Friedenskonzilien", *Dulce et decorum est philologiam colere, Festschrift für Dietrich Briesemeister zu seinem 65. Geburtstag*, Sybille Grosse/Axel Schönberger (ed.), Berlin, 1999, pp. 262-264.

<sup>44</sup> "vacuité juridique", see Olivier Guillot / Yves Sassier / Albert Rigaudière, *Pouvoirs et institutions dans la France médiévale, t. 1, Des origines à l'époque féodale*, Paris, 1999, pp. 287-291.

<sup>45</sup> Dom P. de Monsabert, Chartes et documents pour servir à l'histoire de l'abbaye de Charroux, *Archives historiques du Poitou* = AHP, 39, Poitiers, 1910; Georges Thomas, *Les comtes de la Marche de la Maison de Charroux (Xe siècle-1177)*, Paris, 1928.

The abbey of Charroux had frequent difficulties with the family of Rochemeaux, whose castle was very close to the abbey. In a document from around the year 1050, Audebert de Rochemeaux and his daughter Arsinde had decided to return some goods to the abbey. In addition, for the redemption of their souls, they had made donations to the abbey and submitted to an excommunication, should they fail to keep their word.<sup>46</sup>

At the same time (1047), William V, Count of Auvergne, returned several churches and lands, as well as making a donation to the Abbey of Charroux, for having usurped the monastery of Issoire (situated to the south-east of Clermont). When he and other violators were accused, William confessed his fault (and that of his forefathers), in having deprived the Abbey of its ownership.<sup>47</sup>

In another case, in 1103, Bertrand of Rochemeaux returned to the Abbot the goods taken by his ancestors, making his redress in the presence of the Abbot Peter and other representatives of Charroux. He also declared a responsibility for robbery, pillage, murder, and bloodshed; and, laden with guilt, he offered reparation for the damage he had caused and gave back to the abbot and the monks of Charroux the goods which the previous abbots had revindicated.<sup>48</sup>

<sup>46</sup> AHP 39, pp. 27-28:

"Notum sit omnibus quod ego Audebertus de Rocamello et filia mea Arsindis, pro animarum nostrarum redemptione, aquam nomine Karantem, quam auferebam monachis sancti Salvatoris, gurpio de ponte de Brullio usque in antea et tribus donalibus damus, et de ponte de Brullio usque ad molendinum de Ginifie piscationem in anno quatuor vicibus, et quicumque ex hominibus in ea piscaverit, sancti Salvatoris nullam consuetudinem alicui reddat, nisi monachis Deo in loco Karrof servintibus. Relinquo et silvam que Bellus Boscus dicitur, concedo et ut quicquid habitatores prefati loci in hisque de meo sunt adquirere potuerint in perpetuum possideant. Hoc donum et hanc dimissionem in manu dompni Hisemberti episcopi Pictavensis facimus, et quicumque omnia eis supradicta abstulerit, excommunicatus sit."

<sup>47</sup> AHP 39, pp. 91-93:

"Quod cum ita de fidelibus constare fideliter credatur, certum est quia violatores sanctuarii sunt dissipatores ecclesiarum Dei, et earum raptores substantiarum qui sua impia presumptione ad infidelium transeuntis consortium, numquam profecto nisi respuerint ac toto corde poenitendo omnipotenti Deo satisfecerint in superna Christi recipientur ecclesia, sed cum eo de quo scriptum est: Qui inter sanctos inique gessit non videbit gloriam Domini atque cum Eliodore et Antiocho violatoribus utique sanctuarium Dei pariterque cum eo qui ad Christi sanctaeque nuptias ecclesiae absque nuptiali veste praesumpsit intrare, in tenebras demergentur exteriores, ubi erit fletus et stridor dentium in secula seculorum." ;

Thomas Gergen, "Et meam considerans culpam... La Paix de Dieu comme source juridique pour la résolution des conflits", *La Culpabilité*, Jacqueline Hoareau-Dodinau/Pascal Texier (ed.), Limoges, 2001, pp. 367-385 (Actes des XXèmes Journées d'Histoire du Droit, *Cahiers de l'Institut d'Anthropologie Juridique* 6).

<sup>48</sup> 'Etant pénitent pour satisfaire en partie à tous ces désordres, ledit Bertrand remit entre les mains de Pierre, abbé, et des moines de Charroux, tout ce que ses prédécesseurs abbés, Hugue, Foucault et Fouchard avaient contestés.' AHP 39, pp. 130-131.

In these cases, a solution to the conflict between the Abbey of Charroux and the nobles was not found by an ordinary procedure in a court and by punishment. There was a negotiation between them, for restoring the broken peace. The cartulary provides a description of these procedures, a self-accusation by an individual against himself (and even for his family and his ancestors).<sup>49</sup> Furthermore, the stolen goods and lands were returned to the original owner (the Abbey of Charroux). To avoid punishment (excommunication) the delinquents offered a donation to the Abbot; and for the future, they promised not to repeat their misdeeds and to keep their word. If they failed, they agreed to suffer excommunication (*et quicumque omnia eis supradicta abstulerit, excommunicatus sit*), or a malediction (*ut eterne maledictionis periculum subeant omnes qui violare aut perfrangere temptaverint illud*).<sup>50</sup> The Peace council of Limoges, held in 1031 and repeated in 1033, forced the knights to uphold this truce.<sup>51</sup> Those who refused were to be excommunicated.<sup>52</sup>

It is interesting to conjecture whether one of the canons proclaimed at the council in 989 had been applied in these cases. In order to find a negotiated solution for both sides, it is true that our sources do not quote a legal justification (*statuta pacis* or the Roman or Canon Law), nor is another norm regarded as customary law. However, the way of thinking is not unlike that of a modern legislator or judge, when he seeks a legal source (for example, an illegal enrichment – article 1382 of the current French Civil Code). The fact that there is no indication does not exclude the use of the Peace rules as a basis for restitution. Neither is there a quotation of another source (Roman or Canon law) to be found. But there is much evidence in support of the hypothesis that the Peace rules had been applied.

Both the time and the place support our thinking. The rules proclaimed in Charroux, had often been repeated after 989. The council of Poitiers in 1011-1014 referred directly to these rules, by making reference to their origin at

<sup>49</sup> William's declaration is prettily obvious:

"Pro qua re permotus ego Guilelmus, per gratiam Dei princeps Arvernorum, et de tali usurpatione sicut de multis male praesumptis parentum meorum nichilominus et meam considerans culpam ..."  
AHP 39, p. 93.

<sup>50</sup> Monsabert, AHP 39, p. 95; Lester K. Little, *Benedictine Maledictions - Liturgical Cursing in Romanesque France*, Ithaca-Londres, 1993, pp. 30-44.

<sup>51</sup> Michael Frassetto, "Violence, Knightly Piety and the Peace of God Movement in Aquitaine", *The Final Argument. The Imprint of Violence on Society in Medieval and Early Modern Europe*, Donald J. Kagay/L.J.A. Villalon (éd.), Woodbridge, 1998, pp. 13-26.

<sup>52</sup> Pierre-Roger Gaussin, "La Paix de Dieu", *La Paix de Dieu Xème - XIème siècles*, Actes du colloque organisé au Puy en septembre 1987 par le Conseil général du département de la Haute-Loire, p. 43; Ernest Sémichon, *La paix et la trêve de Dieu. Histoires des premiers développements du Tiers-Etat par l'Eglise et les associations*, Paris, 1857 (?1869), p. 37.

the council of Charroux (*sicut in concilio Karrofense constitutum est*);<sup>53</sup> they were well known in the whole of France during the eleventh century. The idea of peace was also current in the liturgy, and thus gained authoritative force. The Holy Mass, the ceremony of funerals, the kiss of Peace before communion, the word of the Fathers that Peace was the kingdom of the Lord are all tangible Peace institutions which were exercised in those times.<sup>54</sup>

Further, we can even name the bishops who testified to the act of William V d'Auvergne.<sup>55</sup> Jourdan of Limoges, Aimon of Bourges (archbishop), Rencon of Clermont and Isembert of Poitiers were bishops who fought for the Peace and were involved in organising the Peace councils of Limoges, Poitiers and Saintes. In Limoges five Peace councils were celebrated between 994 and 1033 — namely, in the years 994, 1028, 1029, 1031, and 1033.<sup>56</sup> Thus Charroux (capital of the small County of the March and situated between the bishoprics of Poitiers and Limoges) was, for this reason, subject to influence from both sides. In the text we find even the name of Pope Leo IX who was a “motor” in the Peace movement. This Pope is mentioned in the Alsacian Peace of 1094/95<sup>57</sup> and probably also proclaimed the Peace of God in Reims in 1049.<sup>58</sup>

Although arguments from time, place and persons are not the strongest which we can make, it is all the more convincing if the facts in our cases fit the general outline of one of the Peace canons. In the first canon of Charroux, it is stated that, if anyone mistreats a holy church, or steals something with the use of violence, he will be excommunicated — unless he makes proper restitution.<sup>59</sup> Also the third canon is probably pertinent, in that it re-

<sup>53</sup> J.-D. Mansi (ed.), *Sacrorum conciliorum nova et amplissima collectio*, Florence and Venice, 1759-1798, Paris, 1899-1927 (reed.), vol. 19, col. 265-266.

<sup>54</sup> Germain Sicard, “Paix et guerre dans le droit canon”, *Paix de Dieu et guerre sainte en Languedoc au XIIIe siècle*, Toulouse, 1969, pp. 74-75 (Cahiers de Fanjeaux 4); Angelus Albert Häussling, *Mönchskonvent und Eucharistiefeyer – Eine Studie über die Messe in der abendländischen Klosterliturgie des frühen Mittelalters und zur Geschichte der Meßhäufigkeit*, Münster/Westfalen, 1973, p. 23-24 (Liturgiewissenschaftliche Quellen und Forschungen 58); Theodor Klauser, *Kleine Abendländische Liturgiegeschichte. Bericht und Besinnung*, Bonn, 1965, p. 70.

<sup>55</sup> AHP 39, p. 95.

<sup>56</sup> Goetz, “La paix de Dieu”, pp. 134 and 141.

<sup>57</sup> The end of the Pax Alsatiensis is as follows: “Et ne tam utile tamque sacrosancte pacis decretum odiose negligatur, a sacerdotibus diligenter caveatur, et quia Leonis pape banno sancitum est, cunctis dominicis diebus constanter doceatur; et semper in quarte ferie vespera Dei pacis adventus, ut oportet; cum sonitu campanorum publice indicetur.” Hertzberg-Fraenkel, *Forschungen*, XXIII, pp. 151 sq.

<sup>58</sup> Hoffmann, *Gottesfriede*, pp. 88 and 218.

<sup>59</sup> Anathema infractoribus ecclesiarum. Si quis ecclesiam sanctam infregerit, aut aliquid exinde per vim abstraxerit, nisi ad satis confugerit factum, anathema sit.

J.-D. Mansi (ed.), vol. 19, col. 89-90.

quires evidence of violence against a member of the clergy (priest, deacon) as well as a refusal to compensate the wronged party.<sup>60</sup>

Each of our chosen cases deals with the illicit acquisition of ecclesiastical belongings or an act of violence against the clergy in Charroux. The canons specified that the delinquents must make a proper restitution (*satisfactio*). In the charters they declared such a restitution and had a chance<sup>61</sup>, in this way, to avoid the anathema provided by the Peace rules. An application of the first and third canons of the Peace council of Charroux (989) is therefore operable on the three charters treated. In addition, the influence of the Peace rules is also to be found later in the twelfth century.

The evil customs and the acts of usurpation, committed by Audebert de la Marche, are mentioned in another source, dealing with the reconciliation of the count with the abbey of Charroux. The count, grieving because of his son's death, admits his faults and is ready to return the belongings and rights owned by the abbey in former times:<sup>62</sup>

Scripto presenti tam presencium quam futurorum memorie commendamus quod Audebertus comes Marchie in morte filii sui Marquisii penitentia ductus pro malis que fecerat ecclesie Karroffensi, pravas consuetudines quas imposuerat in terra et hominibus sancti Salvatoris, coram Guillelmo Abbate et fratribus dereliquit, videlicet, vineas quas abstulerat, exactiones universas quas in vico abbatis, in mensuris tam vini quam rerum ecclesiasticarum querebat, quedam in villa Solaria que aufferebat in quadrigis; ...<sup>63</sup>

In addition to the crimes against the property of the abbey (first Peace rule of Charroux), the count declares himself responsible for the crimes

<sup>60</sup> Anathema clericorum percussoribus. Si quis sacerdotem aut diaconem, vel ullum quemlibet ex clero, arma non ferentem, quod est scutum, gladium, loricam, sed impliciter ambulantiem, aut in domo manentem, invaserit, vel ceperit, vel percusserit, nisi post examinationem proprii episcopi sui, si in aliquo delicto lapsus fuerit, sacrilegus ille, si ad satisfactionem non venerit, a liminibus sanctae Dei ecclesiae habeatur extraneus.

J.-D. Mansi (ed.), vol. 19, col. 89-90.

<sup>61</sup> "nisi ad satis confugerit factum" (first canon); "si ad satisfactionem non venerit" (third canon).

<sup>62</sup> Monsabert, AHP 39, pp. 161.

<sup>63</sup> The charter adds more specifics: "...illud quod rotagium vocant, lignorum terragium, deditque pro anima sua et filii sui Deo et sancte Virtuti in confraternitate sancti Salvatoris trium dierum nundinas, duas eminas salis, etiam recognovit unam quam reddebat et alteram subtrahebat, quam Almodis comitissa amita Audeberti ecclesiae in helemosinam dederat. Operarios etiam juxta monasterium qui vulgo dicitur Estaus quos fieri sicut confessus est injuste prohibebat, culpam suam recognoscens abbati ac capitulo et amodo libere faciant, permisit atque concessit." Monsabert, AHP 39, p. 161.

against the person which he has committed within the jurisdictional and administrative domain of the abbey (third canon):<sup>64</sup>

Recognovit insuper quod rixa, contenciones facte in vico abbatis, arma, tracta et sanguis ad ecclesiam et abbatem pertinent, et quod injurie hujusmodi coram abbate debent terminari, et si quid juris in eis habebat, Deo et sancte Virginitati Karrofensi et fratribus libere dedit et concessit et in pace habere permisit; super malis igitur et injuriis ecclesie memorate illatis coram abbate et fratribus Deo misericorditer clamavit, et ab ipsis humiliter veniam postulavit.

It is interesting to note that Audebert's successor, King Henry II of England who had bought the County of the March in 1177, confirmed that Audebert did indeed commit these injustices.<sup>65</sup>

The last two charters show not only a reference to the Peace rules of the council in Charroux (first and third canons), but they can also be seen in the context of the evil customs (*malae consuetudines*) which the count imposed on the abbey. The Peace rules and their application were thus integrated into the negotiation of rights and power between count and abbot.<sup>66</sup> Only when the customary law had been written down, from the second half of the twelfth century onwards, was a certain balance of power established between count and abbot.

IV. Our conclusion is that various types of influence of the Peace rules were being evolved during the eleventh and also later on in the twelfth century. The texts mentioning the Peace institutions, such as the atria, cellaria, etc. or the Peace rules (*statuta pacis*) and the *convenientiae*, were undoubtedly inspired by the Peace councils.

Moreover, the application of certain Peace rules, can also be deduced by

<sup>64</sup> Monsabert, AHP 39, pp. 161-162; Marcel Garaud, Les châtelains du Poitou et l'avènement du régime féodal, XIe et XIIe siècles, *Mémoires de la Société des antiquaires de l'Ouest*, 4e série, Poitiers, 1964, pp. 127-128; Pierre Villard, *Les justices seigneuriales de la Marche*, Paris, 1969, p. 35 (Bibliothèque de l'histoire du droit et droit romain XIII).

<sup>65</sup> Sciatis me concessisse et presenti carta me confirmasse Deo et ecclesie Karrofensi et monachis ibidem Deo servientibus concessionem quam Audebertus comes Marchie eis fecit, scilicet remittendo pravas consuetudines quas posuerat in terra et hominibus sancti Salvatoris pro malis que fecerat ecclesie predictae, vineas quoque quas abstulerat, exactiones universas quas in vico abbatis in mensuris tam vini quam rerum ceterarum querebat...

Monsabert, AHP 39, pp. 165-166.

<sup>66</sup> Roger E. Reynolds, "Rites of separation and reconciliation in the early Middle Ages", *Law and Liturgy in the Latin Church, 5<sup>th</sup> - 12<sup>th</sup> Centuries*, Aldershot, 1994, p. 412 (Variorum Collected Studies Series X).

the context even if there is no concrete reference to a council. This has been seen in the examples from Charroux, the town where the Peace movement had its origin, an indication that the ideas of the Peace have survived there and have continued to exert influence in subsequent times. By analysing the charters of this Abbey, we can identify several instances of restoration of goods to the abbey, in an attempt to end the conflicts between the abbey and the laity, as well as to enable laymen to avoid excommunication. This punishment was the main weapon of the Peace of God. The facts in the charters correspond with the Peace rules, which were formulated in an abstract way by the council fathers. The first and third canons of the Peace had been promulgated in 989 and repeated in the neighbourhoods near Charroux (Poitiers, Limoges).

There is therefore good reason to think that the Peace tradition had entered into cartulary practice. The fact that the Peace is not mentioned as a legal source for the restitution does not mean that it did not have a part. Neither are there other legal sources (Roman or customary law) to be found in the texts. As the customary law had also been fixed later, it is even more probable that the Peace rules —still in people's minds— had been chosen in an effort to locate solutions for conflicts between counts and abbots.

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**Thomas Gergen, “La Paz de Dios y su práctica jurídica en el siglo XI”.**

La aplicación de ciertas normas de Paz puede ser deducida del contexto, incluso si no hay referencias concretas a una Asamblea de Paz. Analizando las cartas de la Abadía de Charroux, lugar donde se originó el movimiento de Paz en 989, podemos identificar varios casos de restitución de bienes a la Abadía, que pueden interpretarse como un intento de poner fin a los conflictos entre ésta y los laicos; éstos intentaban evitar la excomunión, el arma principal de la Paz de Dios. Los datos de las cartas se corresponden con las normas de Paz existentes en los lugares comarcanos de Charroux (Poitiers y Limoges).

Existen buenos motivos para pensar que la tradición de la Paz se introdujo en la práctica de los cartularios. El hecho de que la Paz no sea mencionada como una fuente legal para la restitución no excluye automáticamente que se aplicase, pues otras fuentes, como el Derecho Romano o el Derecho consuetudinario, no figuran tampoco en las cartas. Si consideramos que el Derecho consuetudinario se fijó todavía más tarde, resulta más probable que los cánones de Paz, siempre presentes en la vida cotidiana de los hombres, fueran utilizados para la resolución de los conflictos.

**Thomas Gergen, “The Peace of God and its Legal Practice in the Eleventh Century”.**

The application of certain Peace rules can be deduced by the context even if there is no concrete reference to a Peace council. By analysing the charters of the Abbey of Charroux, the town where the Peace movement had its origin in 989, we can identify several instances of restoration of goods to the abbey, in an attempt to end the conflicts between the abbey and the laity, as well as to enable laymen to avoid excommunication - the main weapon of the Peace



of God. The facts in the charters correspond with the Peace rules repeated as well in the neighbourhoods near Charroux (Poitiers and Limoges).

There is therefore good reason to think that the Peace tradition had entered into cartulary practice. The fact that the Peace is not mentioned as a legal source for the restitution does not automatically mean that it did not have a part. Neither are there other legal sources (Roman or customary law) to be found in the texts. As the customary law had also been fixed later, it is even more probable that the Peace rules – still in people's mind – had been chosen in an effort to locate solutions for conflicts.

**Thomas Gergen, “La Paix de Dieu et sa pratique juridique au XI<sup>e</sup> siècle”.**

Même s'il n'est pas fait référence explicite à un concile de Paix, l'on peut déduire du contexte l'application pratique de certaines règles de Paix. En dépouillant les chartes de l'abbaye de Charroux, le lieu où le mouvement de la Paix prit source en 989, l'on constate que plusieurs restitutions de biens à l'abbaye peuvent être qualifiées comme essai de mettre fin aux conflits entre celle-ci et les laïcs; ces derniers envisageaient d'éviter l'excommunication, la sanction centrale de la Paix de Dieu contre les usurpateurs des biens de l'Église. Les faits dans les chartes correspondent aux règles de la Paix, répétées plusieurs fois autour de Charroux (Poitiers, Limoges).

Il y a donc lieu de dire que la tradition de la Paix est entrée dans la pratique des chartes. Le fait que la Paix n'est pas mentionnée dans les sources pour la restitution n'exclut pas automatiquement qu'elle n'ait pu jouer car d'autres sources comme le droit romain ou le droit coutumier ne figuraient pas non plus dans les chartes. Étant donné que le droit coutumier fut fixé encore plus tard, il est donc plus probable que les canons de Paix – toujours présents dans la vie quotidienne des hommes – ont été utilisés pour la solution des conflits.

**Thomas Gergen, “Der Gottesfrieden und seine rechtliche Praxis im 11. Jahrhundert”.**

Selbst wenn auf die Gottesfrieden nicht explizit Bezug genommen wird, kann man dennoch die praktische Anwendung gewisser Friedensregeln aus dem Kontext erschließen. Die Kartularien der Abtei von Charroux, wo 989 das erste Gottesfriedenskonzil stattfand, enthalten mehrere Rückübergabungen von Abteigut, welche als Versuch gewertet werden können, die Konflikte zwischen Abtei und Laien zu beenden und die Verhängung der Exkommunikation, Hauptwaffe der Gottesfriedensbestimmungen, zu vermeiden. Hierbei stimmen die Tatbestände von konkretem Einzelfall und abstrakter Friedensregelung überein; dabei wurden die Friedenskanones sehr oft anlässlich anderer Konzilien in der Umgebung wiederholt (Poitiers, Limoges).

Daraus folgern wir, daß die Gottesfriedenstradition in die Kartularienpraxis Einzug gehalten hat. Dabei kann aus der Abwesenheit ihrer expliziten Erwähnung nicht geschlossen werden, daß sie überhaupt nicht angewandt wurden, denn auch das römische oder das Gewohnheitsrecht wurden nicht eigens genannt. Da das örtliche Gewohnheitsrecht erst später niedergeschrieben wurde, ist es sogar eher wahrscheinlich, daß die Friedensregeln – die noch immer in den Köpfen der Menschen vorhanden waren – für die Lösung der hier einschlägigen Konflikte bemüht wurden.