RESEARCH ARTICLE

Corporal Punishment at Work in the Early Middle Ages: The Frankish Kingdoms (Sixth through Tenth Centuries)*

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Abstract
This article deals with a paradox. Evidence for the punishment of workers during the early Middle Ages is richer in the earlier period (sixth and seventh centuries), when rural workers are generally thought to have been the least oppressed; by contrast, direct discussion of the subject largely drops out of the record in the Carolingian era (eighth to tenth centuries), despite clear evidence for renewed intensification of economic exploitation by both lay and religious lordships over the same period. Whereas the punishment of slaves had once provided a richly productive metaphor for thinking through issues of moral authority and legitimate leadership, Carolingian moralists and commentators no longer took the punishment of workers as a meaningful model for other, more morally or religiously motivated practices of punishment. Despite interest in punishment in other, non-exploitative contexts, lords' practices of punishment of their workers were no longer taken as productive of meaning, whether positive or negative. The relationship of lords with their lowest-ranking dependents no longer defined or illustrated their power in the way that it had for the earlier Roman and late antique paterfamilias. One reason for this was the increasing tension perceived between profit-seeking and the correct, justified exercise of punishment: the two were kept at arms' length by Carolingian writers to a surprising extent.

Within the context of Western European history, the early Middle Ages are regarded as a period of relatively low levels of oppression of peasants – the vast majority of workers at that time.[1] For the Frankish kingdoms (which in time grew to cover an area corresponding to modern-day France, Belgium, the Netherlands, Switzerland, Germany, and Austria), this seems to have been especially true during the sixth and seventh centuries, during the Merovingian period, when most lords enjoyed

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[1]Chris Wickham, *Framing the Early Middle Ages* (Oxford, 2006), pp. 519–588.

only limited (for lords) social, economic, and political domination over rural populations. It is not that they were any less keen to punish their workers and dependents than those who came either before or after them. The extraction of labour, whether in the form of "productive" or "care" work, very likely continued to involve a great deal of day-to-day violence. The basic punishment toolkit was all there; the only thing lords lacked to turn it into more productive control and higher revenue extraction was the ability to extend such methods of coercion systematically.

Towards the latter end of our period (roughly corresponding to the Carolingian period, eighth and ninth centuries), lords did gradually manage to intensify their political and economic control over peasants, and one would naturally expect punishment and the threat of violence to have featured prominently as part of their arsenal of coercion. In practice, it is virtually certain that these did play a significant role.[2] Oddly, though, it is precisely around the same time that references to the punishment of workers start to fade from the record. If anything, sources become ever coyer about lords' punishment of their dependents, yielding fewer concrete examples and less direct reflection on the subject. Their engagement with the issue also becomes more generic and superficial.

One way to account for this chronological contrast might be the greater practical distance that then separated lord and worker, which went hand in hand with the intensification of exploitation. Merovingian lords had typically sought to control just a small force of directly exploited workers and mostly left their tenants alone. By contrast, the larger-scale estate management practised by some lords in the Carolingian period, including important ecclesiastical and monastic lordships, involved coordinating the work of tenants, which, in turn, placed more emphasis on layers of delegation through estate managers. Delegated punishment of workers by estate managers is more elusive in the record, essentially because it did not reflect upon the moral character of anybody worth talking about. But this cannot be the whole story behind the change in the nature of the discussion across the period: Carolingian lords continued to have domestic servants as well, and many of these were, in fact, drawn from the very tenant families that were being brought increasingly under their control.[3] The issue of how to deal with subordinates who were meant to work for them was therefore as relevant to them as it had been to earlier or later elites. But it does seem to have led to remarkably little contemporary discussion.

This is all the more surprising as, besides being a period of intensification in rural exploitation, the eighth and ninth centuries were also a time in which strong emphasis was increasingly being laid on the duty of correction, which became seen as a crucial element in the mission handed down by God to kings, and, in turn, by kings to royal officials, bishops, abbots, and heads of households.[4] Punishment and

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[2]Jean-Pierre Devroey, *Puissants et misérables* (Brussels, 2006), pp. 295–304.

[3]*Idem*, "Femmes au miroir des polyptyques", in Stéphane Lebecq, Alain Dierkens, Régine Le Jan, and Jean-Marie Sansterre (eds), *Femmes et pouvoirs des femmes. Byzance et en Occident (VIe–XIe siècles)* (Lille, 1999), pp. 227–249; also Alice Rio, *Slavery After Rome, 500–1100* (Oxford, 2017), pp. 161–165.

[4]*Correctio* defies footnoting, but a good starting point is still Rosamond McKitterick, *Carolingian Culture: Emulation and Innovation* (Cambridge, 1994).

its legitimacy were certainly a matter for discussion in political and religious life.[5] Yet this confluence of greater economic exploitation of peasants and more robust moral backup for correcting subordinates did not lead to greater engagement with the question of how or when to punish workers; it anything, it led to less. It is worth asking why it should have been precisely at this time that the punishment of workers fell from its earlier position as a key analogy for thinking through such fundamental themes as moral leadership, mutual ties, discipline and responsibility, to turn into something at once more distasteful and more anodyne, that no-one much liked to write about.

Most sources under consideration here are ecclesiastical and monastic, which greatly impacts the overall profile of punishment that emerges from them. This perspective looms large not just because of the natural slant in the surviving source material, but also because religious institutions were at a fruitful intersection of multiple regimes and disciplines of labour, people, and jurisdictions, all of which makes them useful for thinking through the themes of this Special Issue. They were establishing their authority over large numbers of rural workers and experimenting with new models of work management while at the same time self-consciously elaborating a distinctive and explicit punishment regime through monastic rules, canon law, and penitentials. They were lords of labouring people themselves, but they also claimed a duty and right to judge the correctness of other people's practices of punishment of their own labour force, for instance, by imposing penance or giving sanctuary. It is, therefore, worth paying attention to when and why they made, or failed to make, the connection between punishment and work.

I refer here to both "masters" and "lords", but this is not to imply a strong or clearly datable chronological rift between Roman masters and medieval lords. The distinction between the two for the early medieval period is really a matter of emphasis. Most lords were also masters, in the sense that they had unfree dependents, both domestic and rural, but not all masters were lords (for instance, merchants like the one from the *Miracles of Saint Goar* whom we will meet below, or Jews, or, indeed, well-to-do peasants). Non-lordly masters, though, are even less well documented and played no part in shaping the elite discourse of punishment. So, in practice, I will mostly stick here to masters who were also lords and use the terms fairly interchangeably. Peasants, rural workers, could be either free or unfree; those I discuss here were mainly tenants who held farms from their lords in exchange for rent, and later also for regular dues in kind and in labour. "Unfree" and "slave" are legally equivalent, but the first term takes in the whole – very broad – spectrum of who could be claimed under that status, whereas "slave" denotes only the most closely supervised and heavily subjected end of that spectrum.

The Rise and Fall of the Paradigm of Slavery

The diminishing interest in punishment in surviving written sources closely tracks a simultaneous decline in engagement with slavery as a symbolic and moral theme.

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[5]For a recent treatment of punishment in the Carolingian period, see Maximilian P. McComb, "Strategies of Correction: Corporal Punishment in the Carolingian Empire 742–900" (unpublished Ph.D., Cornell University, 2017).

This left an important gap in the discussion of labour in general, because the entire framework for discussion of the punishment of workers had been heavily overdetermined by the model of slavery, which dominated all discourse about it, even though it almost certainly did not dominate in terms of actual labour relations in either antiquity or the early Middle Ages.[6]

Slavery had taken on this importance not because it was the main form of labour relationship but because it helped to put things in the starkest possible terms. Late antique patristic writers had engaged with it quite intensively because the complex ethical problems involved in one individual holding virtually unrestricted power over another turned it into a productive source of analogies through which to discuss power more generally, both worldly and divine.[7] When, in the mid-fifth century, Salvian, a priest in Marseille, wrote his *De gubernatione Dei*, in which he argued that late antique Gallic elites fully deserved the harsh treatment that God had recently been meting out to them, he used punishment and slavery as the key to understanding both his own times and man's relationship to God. He first berated the elites as bad slaves who failed to obey their master: although they deserved death, God had sent them only lighter punishments to make them mend their ways. He continued the servile analogy (which doubtless would have been very shocking to those he was addressing), observing: "our very nature and wickedness are of a servile sort: we wish to do wrong and not be beaten for it" (IV, 2). He then drew up a standard and highly stereotypical list of the common faults of slaves, including thieving, lying, greediness, and running away, and presented them as, first, driven largely by circumstances of their masters' own making, and second, as less harmful and wrong than what masters did themselves. Key among these masters' failures were their bad practices of punishing their slaves, which Salvian contrasted with God's own just punishment of humanity. For him, the punishment of slaves was clearly absolutely necessary and something that good masters knew how to do fairly and productively. These masters' punishments were wrong because they were hypocritical (in that they were punishing their slaves' sins harshly, despite being guilty of worse ones themselves, for which they nonetheless expected God to forgive them) and because they were cruel, leading slaves to further sin and dissimulation instead of correction and obedience.[8]

Salvian's work represents a high point in the level of symbolic importance attached to the punishment of slaves, but this remained an important and fruitful theme throughout the patristic era. The *Life* of the bishop Caesarius of Arles, written about a century later than Salvian and also in the south of Gaul, sought to establish its subject's ability to correct appropriately by saying that he never condemned anyone, "whether one of his slaves or the freeborn men subjected to him" (*sive de servis sive de ingenuis obsequentibus sibi*), to more than the "legitimate discipline" of thirty-

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[6]Wickham, *Framing the Early Middle Ages*, pp. 570–588.

[7]The works of John Chrysostom alone yield over 5,000 references to slavery: Kyle Harper, *Slavery in the Late Roman World, AD 275–425* (Cambridge, 2011), p. 18; Chris de Wet, *Preaching Bondage: John Chrysostom and the Discourse of Slavery in Early Christianity* (Oakland, CA, 2015).

[8]Georges Lagarrigue (ed.), *Salvien de Marseille. Oeuvres*, vol. 2, Sources chrétiennes, 220 (Paris, 1975); Salvian, *On the Government of God*, transl. Eva M. Sanford (New York, 1930). On this passage, see C. de Wet, "The Great Christian Failure of Mastery", *Religion and Theology*, 25:3–4 (2018), pp. 394–417.

nine lashes. This odd number matches the maximum allowable number of lashes to which a judge could condemn a fellow Jew according to Jewish law. Beyond this number, the punishment was presented as a humiliation and a denial of brotherhood: "Forty stripes he may give him, and not exceed: lest, if he should exceed, and beat him above these with many stripes, then thy brother should seem vile unto thee" (Deuteronomy 25:3, King James Version). Forty had later been amended to thirty-nine in the Mishna: there, the judge, after consulting a doctor regarding the highest number of lashes the condemned person could withstand without risk, had to prescribe the next highest number that was divisible by three (one third to be administered on the chest, two thirds on the back), resulting in an absolute maximum figure of thirty-nine.[9] Other elements in the same chapter of the *Life* of Caesarius offer an intriguingly close match with provisions found in the same section of the Mishna (tractate Makkot 3), so this does seem to be the result of direct influence, whether on Caesarius's actual policies or in the writing of the *Life*.[10] Arles had a large Jewish community (albeit one with which Caesarius had a terrible relationship), so direct borrowing is far from implausible, even if it only came out of an unwillingness to concede religious and moral high ground – though it is also somewhat ironic given Caesarius's insistence in other contexts that Christians should not adopt Jewish customs. In any case, the reference to thirty-nine lashes was intended to show that Caesarius ignored worldly status distinctions altogether and treated all his workers as his "brothers" in religion – albeit in a rather harsh sense.[11]

This denial of worldly status distinctions was obviously rather double-edged. While the message the reader was meant to take away from this story was clearly that Caesarius treated his slaves no more harshly than his free people (that is, there were limits to how far they could be punished), it is also a little surprising to see him subject his free workers to flogging in the first place. According to Roman law and older Roman ideas of household governance, a paterfamilias, in principle, had the legal authority to inflict punishment on his children and his slaves, but not on anyone else.[12] Perhaps Caesarius's position as a bishop, which gave him

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[9]*Vita Caesarii*, I.25, ed. Bruno Krusch, MGH *Scriptores rerum Merovingicarum*, 3 (Hannover, 1896), p. 466; William Klingshirn (transl.), *Caesarius of Arles: Life, Testament, Letters* (Liverpool, 1994), p. 21. Mishna, Makkot 3.10–11. "Forty lashes less one" also features as a standard Jewish legal penalty in Paul, 2 Corinthians 11:24, which could also be where Caesarius had got that number, but in Paul it has none of the same connotations of restraint.

[10]Other direct parallels: an overseer of the church who went beyond thirty-nine lashes, if this resulted in death, was held guilty of murder; for very serious or compounded crimes, the lashing could resume after a few days of healing (both provisions in Mishna Makkot 3.14). Contributors to Book I of the *Vita*, composed shortly after Caesarius's death, included Cyprianus, bishop of Toulon, a close associate of his, and Firminus of Uzès (Klingshirn, *Caesarius of Arles*, p. 1); both were bishops in Southern Gaul where Jewish communities were at the time much more prominent than elsewhere. The early diffusion of the Mishna in the Latin West is very difficult to ascertain, but the reference seems clear enough here.

[11]As noted by Mary Sommar, *Slaves of the Churches: A History* (Oxford, 2020), p. 115, though without noting the reference to Jewish law. Sommar takes this at face value as evidence that Caesarius treated his slaves "relatively well", but in the Mishna, thirty-nine lashes are certainly seen as sufficient to risk killing someone.

[12]The classic article is by Richard Saller, "Corporal Punishment, Authority and Obedience in the Roman Household", in Beryl Rawson (ed.), *Marriage, Divorce and Children in Ancient Rome* (Oxford, 1991), pp. 144–165. Saller argued that there would have been a much greater reluctance to punish adult offspring

some judicial authority and discretion, at least for legal cases involving church business, contributed to muddying the waters: free people could certainly be condemned to corporal punishment as a result of a judicial process, even if this applied only to *humiliores*, "the more humble" or the socially weak. Caesarius's action is framed in the text as correcting a sin (*quisquis peccans*) rather than in the light of labour coercion. However, since the same chapter mentions overseers (*ordinator*, *praepositus*) as the ones inflicting the punishment and needing to be warned against exceeding its limits, labour exploitation certainly seems to be the context for it. The blithe unconcern of the authors of the *Life* on this score suggests they did not expect anyone to be shocked by it. At the same time, Caesarius, in warning that overzealous punishers who killed someone in the process of punishing them would be charged with homicide, was also ignoring Roman law in a more benign sense: epitomes of Roman law circulating at this time and later continued to emphasize that a master who killed his slave while punishing him for doing something wrong (*culpa*) was not guilty of homicide unless there had been a clear intention to kill, *nam emendatio non uocatur ad crimen*, "for correction should not be reckoned a crime".[13] The message was that Caesarius, through his regime of punishment, sought to go above the social divisions of Roman law by appealing instead to Old Testament law's basic assumption of equality among God's people.

Towards the end of the sixth century and further north, in the Loire valley, the theme of the punishment of slaves was still richly productive of meaning for Gregory of Tours, though mainly in order to criticize abuses of power rather than as a metaphor for God's power. His *Histories* contain two especially striking "bad master" examples. Sichar, as he ordered one of his slaves to work, beat him so savagely, striking him repeatedly with a rod, that the slave drew his master's sword and wounded him with it; Sichar's "friends" (his *amici*, which is to say, his military retinue) ran up, beat the slave "cruelly", cut off his hands and feet, then hanged him from a gibbet. In the same work, the *dux* Rauching forced his slaves to hold lit candles between their legs, under threat of death, while he sat at dinner; he also punished two of them, who had run away together to a church in the hope of getting married, by burying them alive together in the same coffin, having promised the priest he would not separate them.[14] In the case of both Sichar and Rauching, the reason why these stories were included at all was to offer a negative gloss on the other, more meaningful violence in which they were otherwise engaged, namely, that against their peers. Their behaviour towards their slaves was worth recording, *en passant*, to fill in a generally

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since the punishment of adults was so strongly associated with slavery and therefore humiliating. On the afterlife of such ideas in a monastic context, see Julia Hillner, "Monks and Children: Corporal Punishment in Late Antiquity", *European Review of History / Revue européenne d'histoire*, 16:6 (2009), pp. 773–791.

[13] *Lex Romana Visigothorum*, IX, 12 (slaves) and 13 (children). Unless otherwise stated, all translations are mine. The clause was taken up by Regino of Prüm, *De synodalibus causis et disciplinis ecclesiasticis*, ed. Friedrich Wilhelm H. Wasserschleben (Graz, 1840, repr. 1964), II, 59, p. 237. Stefan Jurasinski, "The Old English Penitentials and the Law of Slavery", in Stefan Jurasinski, Lisi Oliver, and Andrew Rabin (eds), *English Law Before Magna Carta: Felix Liebermann and "Die Gesetze der Angelsachsen"* (Leiden, 2010), pp. 97–118, 108–109.

[14] Gregory of Tours, *Libri historiarum X*, eds. Bruno Krusch and Wilhelm Levison, MGH Scriptores rerum Merovingicarum, I, 1 (Hannover, 1951): VII, 47 (Sichar); V, 3 (Rauching).

disreputable picture. In this, Gregory represents more a return to an older and not especially Christian tradition, according to which the excessively harsh or cruel treatment of slaves was an important signal of bad moral character that cast severe doubt on suitability for holding authority over others. In Gregory of Tours, it is much harder than in Salvian or the Life of Caesarius to see the positive version of the punishment of slaves: instances of punishment related by him tend to be excessive and gruesome, whereas, in the case of "good" masters, punishment or correction are not discussed.[15]

Throughout the sixth century, then, the punishment of slaves was used to express all kinds of meaningful things about the proper exercise of authority: it was fruitful both as a general metaphor and as a moral and spiritual test of powerful people. This is very much in contrast with the use of the theme in Carolingian-era writings, in which it is both rarer and somewhat vacuous. How good or bad someone was at punishing their slaves, for instance, disappears entirely from assessments of character. Although Carolingian-era writers were just as keen as their predecessors on character assassination, they never discussed this aspect of people's behaviour. If anything, rather the reverse: one of the most notable character assassinations of the Carolingian era, that of the ex-slave archbishop Ebbo of Reims by the historian Thegan, decried the fact that a slave had been treated too *well*.[16]

Punitive violence against slaves did still turn up sporadically in church councils, penitentials, saints' lives, or manuals of good conduct. The most evocative reference, by Jonas, bishop of Orléans, in a manual of good conduct written in the 820s for a lay magnate at the Frankish court, pictured lay lords who, despite being themselves "slaves of God" (*servi Dei*), "with wild indignation, enraged with the fury of an agitated mind by the mistakes of their slaves, beat them to excess, killing them with savage blows or maiming them by amputating limbs", and warned that God, for whom all men are equal, would hold such men accountable (the implication, naturally, being that no one else would).[17] His aim here, though, was to stimulate a general feeling of brotherhood in a pastoral sense rather than encourage a more appropriate punishment regime. Most of the passage does not focus on punishment nor on how to manage direct power over someone, but rather on not despising those lower down in the social hierarchy. It puts at least as much emphasis on *pauperes*, generically "poor" or socially vulnerable people, as on slave dependents.

Carolingian-era conciliar legislation did very occasionally deal with the excessive punishment of slaves. Still, it was exclusively via late antique citations rather than contemporary case material when it did so. One woman whose case had been considered at the Council of Elvira in 306 was thus immortalized as *the* quintessential enraged mistress who beat her slave woman to death, standing in for all later and future cases: the clause about what her penance should be was cited in Carolingian-era councils and penitentials, which both suggests that her case was

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[15]For instance, in the story of Attalus, which shows only collaboration and camaraderie between master and slave: Gregory of Tours, *Libri historiarum X*, III, 15.

[16]Thegan, *Gesta Hludowici imperatoris*, c. 20 and 44.

[17]Jonas of Orléans, *De institutione laicali*, II, 22, ed. Odile Dubreucq, *Jonas d'Orléans. Instruction des laïcs*, 2 vols, Sources chrétiennes, 549–550 (Paris, 2012–2013).

still seen as relevant and simultaneously shields from our view anyone else who ever behaved like her afterwards.[18]

Both slavery and the punishment of slaves seem to have become, by the Carolingian era, less powerful tools for writers and intellectuals to think with. For this period, we therefore mostly lack the richly textured reading of master–slave relations that it is possible to gain from reading patristic authors or Gregory of Tours – even as, paradoxically, practical processes of exploitation by lords suddenly become far better documented through estate surveys ("polyptychs") produced by great monastic and ecclesiastical lordships, on the basis of which the social and economic history of the peasantry has been written for this later period.[19]

This change can no longer really be ascribed to the disappearance of slavery, which was for so long a mainstay of the historiography of this period, since it is clear that this disappearance has been largely overstated.[20] While the commercial slavery most iconically associated with Roman antecedents seems by then to have mostly fed overseas markets in the Muslim world, people within the Frankish kingdoms continued to be actively claimed as unfree for a wide variety of purposes, including some new ones, in both rural and domestic settings. Sometimes, the outcomes of such claims were relatively benign, but they were, above all, unpredictable and might change very significantly through the generations: a male tenant head of household might agree to be labelled as unfree to shut down a dispute with his lord and experience little immediate change as a result, but later down the line his daughter might well be claimed as a textile worker or domestic servant at the estate centre, or his sons arbitrarily reassigned as farmhands on other tenancies. Conversely, someone might be enslaved for being unable to pay a fine, or even for selling themselves, but end up with a tenancy and relatively little to tell them apart from their free neighbours – at least until new sources of conflict or local stress came into play. The fading out of interest in the punishment of slaves, then, does not link as straightforwardly to changes on the ground as might once have been thought.

Corporal Correction and the Denial of Self-Interest

One mid-ninth-century text makes it especially clear that the correct punishment of slaves was no longer a meaningful way of representing authority over a well-ordered household. In his commentary on the Benedictine Rule written in the mid-ninth-century, Hildemar of Civate insisted strongly on distinguishing the physical disciplining of monks (children or, more rarely, adults) from that reserved for slaves (*servi*).

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[18]The case was cited, for instance, in the Council of Mainz (847): MGH *Concilia*, III, no. 14, c. 22, pp. 172–173 (also citing the 506 Council of Agde on the killing of *servi* "without the knowledge of a judge"); and also by Regino of Prüm, *De synodalibus causis*, II, 58, p. 237.

[19]The literature is vast, but for great classics of the social history of this period based largely or mainly on polyptychs, see Devroey, *Puissants et misérables*; Ludolf Kuchenbuch, *Bäuerliche Gesellschaft und Klosterherrschaft im 9. Jahrhundert* (Wiesbaden, 1978).

[20]Rio, *Slavery After Rome*. As I argued there, the fact that there was slavery should not be considered per se to imply continuity from the Roman era, as assumed by the so-called feudal mutationist school that pushed most significant social changes down to the year 1000 (Pierre Bonnassie, *From Slavery to Feudalism in South-Western Europe*, transl. Jean Birrell (Cambridge, 1991), ch. 1).

Unlike for slaves, he wrote, the punishment of monks should be carefully measured so that it did not create a strong sense of fear. Acting out of fear of punishment, he said, was the mark of the slave, not the monk; monks should obey out of loyalty, more like *vassalli*, free dependents (though, as we shall see below, this may have been viewing the lives of the latter through rose-tinted glasses).[21] This section of the commentary is only distantly connected to the original text of the Rule, where the corresponding chapter was actually only about doing things "without delay", so it very much represents Hildemar's own input. By the mid-ninth century, then, even some monks – in contrast with Jonas of Orléans – seem to have become reluctant to think of themselves as "slaves of God". By then, the phrase had become such a cliché that Hildemar was likely being deliberately provocative in arguing against it.

The monastic life was the context in which the ends and means of punishment, and especially of corporal punishment, were discussed most explicitly and at the greatest length, all the way from late antiquity, with the writing of the first monastic rules, through the Carolingian era, with commentaries on the Rule of Saint Benedict once the latter had become adopted as standard. Monks make the best-documented lords and masters in this era for the same reasons that they are also the best-documented parental figures: that is, not because they were typical, but because they were so distinctive. It is precisely because monasteries amounted to a bizarre, experimental, reinvented version of both lordship and household that they presented a need to articulate and make self-conscious choices about things that in more "normal" contexts simply went without saying.

Julia Hillner has shown that monastic rules in late antiquity were not strongly committed to corporal punishment and mostly tried to limit it to certain ends and certain people. Early monastic rules in the West fairly consistently limited corporal punishment to those under fifteen.[22] Below that age, children were thought to be too young to understand the gravity of excommunication, the usual punishment for serious wrongdoing by adult monks, so correcting them required more physical methods, such as fasting or flogging.[23] Monastic rules, however, also left open the possibility that adult monks who, for reasons other than age, proved equally impervious to the threat of excommunication might benefit from corporal punishment, too. The corporal punishment of adult monks, though, remained a sensitive, difficult issue and created uneasiness: witnessing a brother being beaten was clearly expected to be traumatic for the community.[24] All this is also what one finds in later, Carolingian-era commentaries on the Rule of Benedict. Benedict of Aniane envisaged corporal punishment for adults only to deal with very serious sins, such as fornication, adultery, or persistent drunkenness. Hildemar of Civate also stipulated that punishment, whether

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[21]Slaves vs *vassalli*: Hildemar of Civate, *Expositio regulae ab Hildemaro tradita et nunc primum typis mandata*, ed. Rupert Mittermüller (Regensburg, NY, and Cincinnati, OH, 1880), c. 5, p. 188. The text, along with an in-progress English translation, is available at The Hildemar Project: http://hildemar.org; last accessed 21 July 2022.

[22]Hillner, "Monks and Children", p. 781.

[23]Rule of Benedict, c. 30: "let them be punished by severe fasting or sharp stripes, in order that they may be cured".

[24]"[T]he victim of physical assault clearly loses status": Lynda Coon, *Dark Age Bodies: Gender and Monastic Practice in the Early Medieval West* (Philadelphia, PA, 2011), p. 85.

through beating or excommunication, could only be inflicted through a transparent hierarchy: no one other than the abbot was allowed to punish.[25] If one monk struck or excommunicated another in response to a serious fault (Hildemar takes as his example the uncontrollable outrage one might feel at witnessing someone mishandling a library book) without having received any special authority to do so from the abbot, this was treated as a lesser offence than simple brawling, but it was an offence nevertheless.[26] Everyone, however, could punish the children, as long as it was with moderation and without anger.

Notably, none of this discussion involved failure to do manual work. This is, in a way, surprising since manual work was, like disciplining and punishment, central to the conceptualization of the monastic life. The two, however, were left unconnected and had been so since the fifth century. John Cassian, c.420, went further than most writers of monastic rules in allowing for the corporal punishment of adult monks. Still, he did not prescribe it in any contexts that involved failure to do work: laziness, or preferring reading to working, were deserving of a public rebuke, but not of corporal punishment or expulsion from the monastery, which were reserved for much more serious sins like breaking discipline, having female friends, eating between meals, or desiring and acquiring things that other monks did not have.[27]

Hildemar's commentary similarly lacks any discussion of punishment in relation to manual labour, though it has plenty to say about both punishment and labour independently of each other. Even when it was productive, work by monks was not about profit or gain but about combating idleness (as well as, in some cases, sheer survival of the community). Hildemar, in fact, cites Augustine on the problem of acquisitiveness and "the anxiety of getting" as sources of worry at the other end of the scale from laziness.[28] He warns, for instance, that monks who were also craftsmen should not be too proud of their skill and that their goods should be sold for less than market price. In relation to work, Hildemar seemed to expect to find the greatest resistance when it came to kitchen duty. Even there, though, he recommended that the abbot, faced with a monk's refusal to take his turn, should take pains to explain the usefulness and charity of the task until everyone consented to serve. For the most obdurate, the punishment for not taking part was simply not being served oneself.[29]

Hildemar has much to say about child monks and is comfortable with the idea that children should be beaten – though much more than any other writer or commentator of a monastic rule, he insisted that this was intended only as "medicine" where preventative measures had proved insufficient, and therefore, in some sense, amounted to an admission of failure.[30] Hildemar also discusses children being put to manual work in the abbey, cleaning, cutting wood, or preparing vegetables. But

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[25]Hildemar, *Expositio regulae*, c. 70, p. 621.

[26]*Ibid.*, p. 622.

[27]Hillner, "Monks and Children", p. 779. Cassian, *Institutes*, 4, 16.

[28]Hildemar, *Expositio regulae*, c. 48, pp. 476–477, referring to Augustine, *De Opera monachorum*, c. 15, Corpus Scriptorum Ecclesiasticorum Latinorum 41, p. 557. If anything, Hildemar envisages punishment more in connection with those who refused to read: pp. 485–486.

[29]Hildemar, *Expositio regulae*, c. 35, p. 398.

[30]Mayke de Jong, "Growing Up in a Carolingian Monastery: Magister Hildemar and His Oblates", *Journal of Medieval History*, 9:3 (1983), pp. 99–128, 107, citing *Expositio regulae*, p. 337. A reading of

even in their case, he does not put the two together and does not discuss punishment for doing this work badly or not at all: the only point where he mentions corporal punishment in relation to the performance of tasks was in an exclusively educational setting, when children made the same mistakes repeatedly while singing or reading.

Therefore, punishment and work were kept in different conceptual spheres to such a degree that this seems a very deliberate and self-conscious choice. High-minded punishment was not focused on petty material outcomes but on disciplining mind and body. The kind of punishment that was being discussed in monastic texts was linked to the goal of shaping the recipient into a better Christian or a better monk; it was never explicitly linked to obtaining labour, nor as part of a productive process, nor ever as a means to any other, more practical end. When framed as a means of obtaining any sort of advantage, including work, punishment seems to have been regarded as morally dangerous or, at best, uninteresting. If anything, punishment was linked most to care: the labour, the work, was seen as done by the punisher for the punished.

Everywhere a contrast was drawn, implicitly or (in the case of Hildemar) explicitly, between the work of monks and the work of anyone whose main role was productive rather spiritual. Monastic writers did not have much to say about the latter. There is no discussion regarding the moral danger of falling into excess while punishing servants: Hildemar had no problem with *slaves* living in fear of punishment. The punishment of servants or peasants was simply not, it seems, meaningful in any sense that made it worth discussing. Monasteries in the time of Hildemar were at the forefront of new experiments in the management of their tenant workforce (notably with the "bipartite estate", through which they obtained both dues and workdays from their tenants). Still, monks themselves would, generally, probably not have been directly involved in disciplining: this was done by agents or estate managers, who were not included among those the Rule was meant to guide. Lists of dues and workdays owed by tenants in monastic polyptychs show unquestionably that tenants were increasingly being squeezed; the big question begged and left unanswered by these lists was, "Or what?" It is easy, and almost certainly correct, to fill this gap with the threat of corporal punishment; it is nevertheless a notable absence in discourse.

Other People's Peasants Versus a Church's Own

On the other hand, the issue of when and how to punish peasants was discussed much more intensively in the area of jurisdiction, where it featured as an important symbolic weapon. Religious authorities presented themselves as ready to pick up the pieces whenever lay lords did punishment wrong. This kind of intervention could go either way: they might intervene to protect workers against their own lords' punishment but also to punish where lords were deemed to have failed to do so.

The first was the more traditional of the two types of intervention and linked back to practices of sanctuary that had begun to develop in the late Roman empire. The protection of the weakest and most vulnerable among Christians was a responsibility

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corporal punishment as medicine was in itself fairly common and also features outside the Latin context in the rule of Basil of Caesarea: Hillner, "Monks and Children", p. 776.

that churches had taken on from the very early days. When discussed in councils, this involved essentially slaves: other types of workers were not mentioned since sanctuary was reserved for people who would otherwise have had no right to evade corporal punishment – a category that included slaves and criminals but not free people running in fear of their lives. Priestly intercession was about convincing masters to forgo a right to which they were entitled, not about offering a haven against violence in general. Fugitive Christian slaves had featured very prominently in laws relating to sanctuary in the Theodosian code, the main source for Roman law in Western Europe, still circulating throughout the early medieval period in the abbreviated form of the *Lex Romana Visigothorum* and its various epitomes. The basic tenor was that slaves should not be ejected from a church unless its clerics could obtain an undertaking from the slave's master that they would not be punished.[31] Priests' role of intercession between slaves and the masters seeking to reclaim them continued in Frankish-era secular and ecclesiastical legislation. The Council of Orléans (511) specified that the slave could not refuse to come back once the master had promised not to punish him and also that if the master then went against his promise, he was to be excommunicated.[32] No attempt was made to extend a fundamental challenge to lay lords' or masters' rights of punishment: canon law and penitentials prescribed excommunication and penance for those who killed their slaves (which is admittedly more than secular laws did), but they did not comment on punishment short of death.[33]

Miracle stories sometimes include narratives that played out some of these sanctuary scenarios, for instance, by showing masters being themselves subject to divine punishment after punishing their slaves despite their seeking sanctuary.[34] These stories were no longer widespread by the Carolingian period: the *Miracles of Saint Goar* by Wandalbert of Prüm, from the ninth century, are relatively unusual in including the stories of two slaves who ran to a church to escape their masters' punishment. Both were in fear of *supplicium* for making unspecified mistakes. The first was killed before the altar by his enraged lay master, a merchant, who died horribly as a divine punishment. The other was owned by a cleric of the church, and his anticipated punishment was also presented as much more thought-out, process-driven, and less fundamentally impulsive (his arms were already bound in preparation for punishment, implying it was not a spur-of-the-moment thing): he was saved through a miracle,

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[31] *Codex Theodosianus*, IX.45.5 (from 432). Karl Shoemaker, *Sanctuary and Crime in the Middle Ages, 400–1500* (New York, 2011), p. 52.

[32] *Concilium Aurelianense* (511), c. 3. For a review of the evidence for slaves fleeing to churches in Francia: Shoemaker, *Sanctuary and Crime*, pp. 63–67.

[33] See above, n. 13. Later Old English versions of Continental penitentials were even easier on masters since even if the slave did die, penance only had to be done if s/he had not been guilty of a fault and had only been killed out of anger (which, in the absence of any enquiry, means it would really have been up to the master or mistress whether they thought they had acted wrongly). Jurasinski, "Slavery", pp. 106–108.

[34] For a discussion of sixth-century examples, see Edward James, "*Beati pacifici*: Bishops and the Law in Sixth-Century Gaul", in John Bossy (ed.), *Disputes and Settlements: Law and Human Relations in the West* (Cambridge, 1983), pp. 25–46, 36–40.

which released him from his bonds, and his owner wisely knew better than to claim him back for punishment.[35]

The second strand of intervention ought to dispel any emerging sense of Christian religious leadership being somehow intrinsically "soft" on punishment: churchmen could take the initiative to punish as much as to protect.[36] The Carolingian period was a time when corporal punishment, particularly flogging, became a standard part of the coercive toolkit for ecclesiastical authorities dealing with "lowly and useless little people" (*viles et nequam homunculi*, as Amolo of Lyon once put it).[37] Sometimes, this was in tension with lay lords' labour needs and their sense of their own rights and jurisdiction. The Council of Soissons of 853 ruled against lords who tried to prevent bishops or their representatives, apparently in the course of dealing out ecclesiastical justice, from beating their peasants (*coloni*), as well as against lords who took vengeance against them once they had done so.[38] In this context, we are also dealing with a much broader category of "peasants" and "lowly people" rather than just slaves.

All this attention to the punishment of such people, however, was very much centred on religious correction, not work. The one element explicitly related to labour documented in this material involved the prohibition of work on Sundays – which means, ironically, that the clearest connection made between righteous punishment and work in this period actually involves peasants being punished *for working*, rather than to coerce them into it.[39]

Ecclesiastical writers and thinkers in general, then, had plenty to say about punishing other people's workforce and how to go about it. By contrast, their punishment of their own workforce remained very undertheorized, much as we saw earlier in the case of monks. The highly developed Christian discourse of punishment as an inherently selfless act was not easily adapted to discussing churches' own practices of labour management. Disobeying a saint (and by extension his community) by refusing to perform tasks or performing them poorly might easily, of course, have been held to be a sin in itself and a good enough reason to punish – as clearly it had seemed to Caesarius of Arles. But this proved to be a dead end, and it is extremely

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[35]Wandalbert of Prüm, *Miracula Sancti Goaris*, c. 24 and 25. The *Life* of Swithun contains striking English examples of a saint protecting slaves – though, in England, the pairing of slavery and punishment made up a very different sort of cocktail, paying much greater respect to masters' right to discipline their slaves, as noted by Jurasinski, "Slavery".

[36]Punishment in ecclesiastical legislation in general could be extremely harsh and also include corporal punishment: see, for instance, the *Capitula Remedii*, ed. Elisabeth Meyer-Marthaler, *Lex Romana Curiensis*, Sammlung schweizerischer Rechtsquellen 15.1.1, 2nd edn (Aarau, 1966), pp. 645–649. For a discussion, see McComb, "Strategies of Correction", pp. 78–85.

[37]Amolo of Lyon, *Epistolae* no. 1, c. 4, ed. Ernst Dümmler, *Epistolae Aevi Karolini* (Berlin, 1899), III, p. 365; on this particular case, see Shane Bobrycki, "The Flailing Women of Dijon: Crowds in Ninth-Century Europe", *Past & Present*, 240 (2018), pp. 3–46; Charles West, "Unauthorized Miracles in Mid-Ninth-Century Dijon and the Carolingian Church Reforms", *Journal of Medieval History*, 36 (2010), pp. 295–311.

[38]Council of Soissons (April 853): Wilfried Hartmann (ed.), *Die Konzilien der Karolingischen Teilreiche 843–859*, MGH *Concilia*, III (Hannover, 1984), no. 27, c. 9, pp. 288–289. The clause was later taken up by Regino of Prüm; McComb, "Strategies of Correction", pp. 77–78.

[39]On the prohibition of Sunday work throughout this period, see Dorothy Haines, *Sunday Observance and the Sunday Letter in Anglo-Saxon England* (Cambridge, 2010), pp. 1–16.

rare in later Lives to find a saint being depicted engaged in direct violence against his own workforce. That scenario is virtually absent from Carolingian-era sources, presumably to avoid mixing up saints' deployment of violence with base motivations of self-interest. If anything, one finds the opposite. In a famous passage from the *Life* of Gerald of Aurillac by Odo of Cluny, from the tenth century, Gerald, a layman secretly committed to living the life of a monk, sees some of his peasants (*coloni*) moving away from his lands: his attendants urge him to beat them and force them back to their farms, but he lets them go.[40] Laymen punished their workers to force them to work, but by this time saints – unlike in Caesarius's day – apparently no longer approved of punishment for labour and surplus extraction purposes.

This sense of unease about extractive violence extended to the work of church overseers, who were often decried as villains by the very religious authorities they served. The abuses of overseers are a common theme running through the religious literature of the entire period, including Salvian and the *Life* of Caesarius, though there it had been to accuse them of excessive, disproportionate violence.[41] In one story from a Carolingian-era miracle collection associated with Saint Germanus of Auxerre, by contrast, *any* amount of violence is made to look excessive: an estate manager of a monastery, when assigning daily tasks to peasants, met with resistance and had one of them beaten; Germanus responded by breaking his leg. The point is brought home even more forcefully when a character in the same story voices a dissenting opinion: one well-to-do lady, a *matrona*, commented that the saint had gone too far and that the manager had only been within his rights, and she, too, was punished by becoming crippled in her right leg.[42] That this attitude had more to do with punishing violent acquisitiveness and profit-seeking among representatives of churches and monasteries, rather than inherently with being nice to peasants or disliking violence, comes through in another miracle story in which a future saint shook a peasant violently by the head for persisting in ploughing over and across the public highway: punishment might be visited on peasants or overseers alike for having the wrong priorities and privileging material interests.[43]

The only direct discussion of a religious institution's violent coercion of its peasants in its own material interest comes from Alcuin, in a brief poem advising what to do when workers caused trouble out of fear of being oppressed by the monastery of Saint Amand. His message was: flog their backs, spare their souls.[44] This does, as in the *Life* of Caesarius, close the distance between peasants shirking work and committing a sin. Still, it is doubtful whether Alcuin would have been so open

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[40]Odo of Cluny, *Vita Sancti Geraldi Auriliacensis Comitis*, I, 24.

[41]Salvian, *De gubernatione Dei*, IV, 3; *Vita Caesarii*, I, 25.

[42]Heiric of Auxerre, *Miracula Germani*, ed. Jacques-Paul Migne, *Patrologia Latina*, vol. 124, c. 75, col. 1242, cited in Matthew Innes and Charles West, "Saints and Demons in the Carolingian Countryside", in Thomas Kohl, Steffen Patzold, and Bernhard Zeller (eds), *Kleine Welten. Ländliche Gesellschaften im Karolingerreich* (Ostfildern, 2019), pp. 67–97, 76.

[43]Flodoard of Reims, *Historia remensis ecclesiae*, I, 25, ed. Martina Stratmann, *Die Geschichte der Reimser Kirche*, MGH Scriptores 36 (Hanover, 1998), p. 129.

[44]Alcuin, *Carmina* CVIII.2: *Rumpantur dorsa flagellis / Sit rea ruricolis tantum substantia salva*, ed. Ernst Dümmler, MGH *Poetae Aevi Carolini*, I (Berlin, 1881), p. 334; McComb, "Strategies of Correction", p. 76.

about it if the peasants had belonged to one of his own abbeys: Saint Amand was a monastery with which he had a friendly relationship, but out of whose dealings with peasants he did not stand to gain anything personally. Even the most vociferous among other ecclesiastics of this period somehow never liked to portray themselves punishing peasants in their own self-interest or even that of their community. While the pastoral model of punishment here, as in a monastic context, gave scope for subjecting a wider range of people to beatings, including free adults, it simultaneously seems to have become ever more difficult to reconcile with a profit motive – at least at the level of discourse.

Perspectives on Lay Lordship

One would not expect the corporal punishment of workers and subordinates to have presented the same problems of self-presentation for lay lords. The punishment of workers for the express purpose of extraction of labour was necessarily the type of punishment most central to the elite household – as opposed to ecclesiastical, monastic, or royal punishment, which, of course, included this aim but also had more diverse applications and purposes, many of which could be presented as having nothing to do with self-gain.

It is not that being lay was in any way in itself a bar to wielding the power of "correction" in a spiritual sense: doing God's work was very much part of laypeople's remit and responsibility as well, and several capitularies urged lay heads of households to correct those under their authority (their *familia*).[45] There is a fleeting sign of a cross-over impact of monastic models on at least one member of the lay elite's way of thinking about the punishment of those under their authority. In the early 840s, Dhuoda, a mother writing a manual of good conduct for her son William, followed the monastic ethos closely by urging him to correct, "with beatings or with words", the people under his command, as an act of charity and mercy.[46] Here, too, punishment could only be made legitimate and meaningful by eliminating any direct connection between punishment and anything William might have wanted his people to *do* for him. The more lay punishment fitted the model of righteous, spiritually motivated punishment, the less it could have to do with obtaining anything specific from subordinates. It is unlikely that more than a few exceptionally plugged-in laypeople like Dhuoda ever tried to involve themselves in this model or to align themselves to this kind of understanding of their own powers of punishment. Carolingian lords' punishment of their own workers is nonetheless just as elusive as religious institutions' punishment, though for different reasons.

The correct deployment of corporal punishment over subordinates seems to have become less relevant to lords' cultivation of their image and the construction of their legitimacy. In the time of Gregory of Tours, elite males had been discussed and

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[45]*Capitularia regum Francorum* I, ed. Alfred Boretius, MGH *Leges* II, 2 vols (Hannover, 1883–1897), no. 65, c. 5.

[46]Dhuoda, *Liber manualis*, IV.30, ed. Pierre Riché, *Dhuoda. Manuel pour mon fils*, Sources chrétiennes, 225 (Paris, 1975); for English translations: Marcelle Thiébaux, *Dhuoda, Handbook for her Warrior Son: Liber manualis* (Cambridge, 1998); Carol Neel, *Handbook for William: A Carolingian Woman's Counsel for Her Son* (Lincoln, NE, 1991). Compare Rule of Benedict, e.g. cc. 23, 28.

judged chiefly as good (or bad) masters and as good (or bad) friends. The most mean-ingful tests at the time were polarized around what were conceived as either extreme vertical relationships (slaves) or basically horizontal ones ("friends", *amici* – masking the fact that the latter term by then also covered what were very clearly hierarchical relationships, as we saw earlier in the case of Sichar).[47] By the Carolingian era, this had clearly changed: I know of no author from this period who seems to have con-ceived of the punishment of workers in lords' households or on their estates as an effective theatre of power, whether in positive or negative terms. Unlike the Roman-style paterfamilias, for whom what mattered was the appearance of complete control of his household and everyone within it, Carolingian lords were judged more on their ability to operate as the nexus of a political network of military dependents, rooted in a much less absolute kind of authority. For them, the real test was how they dealt with this level of dependent, not the lowest vertical rung of slaves and peasants. For this purpose, skill and fairness in deploying and managing gifts – when to give them, when to withdraw them – was more important than when and how to apply corporal punishment. For that type of dependent, taking away landed benefices, not flogging, was the ultimate punishment. This is where most conflict and negative judgements about lords' wielding of their power became concentrated.[48]

The only extended, explicit discussions of corporal punishment by lords, accord-ingly, involve attempts to impose boundaries in more doubtful cases regarding people who were placed right on the edge between the lowest level of dependent, behaviour towards whom, one way or another, was becoming ever less relevant to the construc-tion of authority, and the higher-level type, who were to be won over and kept in line using only charisma, largesse, and the odd opportunity for plunder. For example, Charlemagne once ruled that beating with a stick (*baculum*) should count as one of the very few reasons why a lower-ranking retainer (*vassus*) could leave his lord. A *vassus* was a lowly kind of retainer at the time: this was the kind of dependence that Hildemar said monks' service to God should be like, as opposed to slavery, but in saying this, he was not referring to anything very elevated. Other valid reasons for a *vassus* to leave his lord included if the lord tried to kill him, defile his wife or daughter, or take away his inheritance – though he said nothing about other forms of corporal punishment, such as beating with fists, for instance.[49] Beating with a stick, out of all forms of punishment, was the one most iconically associated with slaves, so this may have been why it was being singled out as an unacceptably low-status form of violence, especially harmful for someone whose social position was not the strongest in the first place. Charlemagne clearly thought it important to make sure lords did not abuse their powers here while at the same time interfering in lord-retainer relations only in a very light-touch way.

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[47]For an important discussion of these terms and relationships: Gerd Althoff, *Family, Friends and Followers: Political and Social Bonds in Early Medieval Europe*, transl. Christopher Carroll (Cambridge, 2004).

[48]A fascinating example of a lord dealing with his dependents is that of Hincmar of Laon (admittedly a bishop, but in relationships with this type of dependent the distinction was not so crucial): see Charles West, "Lordship in Ninth-Century Francia: The Case of Bishop Hincmar of Laon and His Followers", *Past & Present*, 226 (2015), 3–40.

[49]*Capitularia regum Francorum*, vol. 1, no. 77, c. 16, p. 172.

Perhaps more unexpectedly, priests were apparently regarded as another such marginal category. By the ninth century, priests were increasingly being brought into the charmed circle of those immune in principle from corporal punishment. Still, this bodily and ritual inviolability was evidently hard-won, and kings and bishops had difficulty convincing lay lords that they could not physically discipline the priests officiating within their households.[50] The problem was perhaps compounded by the fact that some household priests were also slaves, but clearly, they were not the only ones at risk.[51]

Being disciplined by someone else without recourse remained, conceptually at least, profoundly connected with slave status and slave connotations. In Carolingian legislation, as earlier in Roman law and in Salic and Ripuarian laws (all of which were still regarded as valid reference points), the legitimate imposition of corporal punishment by a head of household, as a practice of internal discipline entirely subsumed within a hierarchy over which he presided without the need to consult anyone else, was in principle limited to slaves.[52] Documents of self-sale or other forms of entry into unfree service explicitly transferred the right to the new master to "inflict the same discipline upon my back as upon that of your other servants".[53] In practice, though, a lot more people than this were vulnerable to violence. The concentration in Salic law and other "barbarian" law codes on slaves as the legitimate victims of corporal punishment, while free people were treated as if they all lived in a world of honour price, vengeance, and retaliation, left an immense gap in dealing with violence and punishment from a hierarchical superior *outside* a slave–master relationship. While written laws, read at face value, suggest a zero-tolerance approach to any kind of interference with free people's bodies, it was the claimant who had to make this zero-tolerance approach stick, and only a few could do so. While slaves could definitely be beaten, then, and high-status males definitely could not be, between these two poles of clarity, everyone had to find out for themselves where they fitted in over the course of events through the action they were able to take and how it was received. Many people would have found themselves in an ambiguous position, especially those who, regardless of their status, were placed in a hierarchical relationship with the person who might wish to subject them to physical coercion, for whom there was obviously very little practical recourse.

It is telling that in the case of the two kinds of people (priests and *vassi*) we have just seen teetering on this boundary, it was the rather special nature of the work, spiritual or military, which spoke in favour of their being elevated to a higher,

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[50]McComb, "Strategies of Correction", pp. 39–42.

[51]Louis the Pious's *servus* Atto was an unfree priest who complained he had been subjected to corporal punishment: Ernst Dümmler (ed.), *Epistolae variorum* no. 25, MGH *Epistolae Karolini aevi* III, pp. 339–340. Susan Wood, *The Proprietary Church in the Medieval West* (Oxford, 2006), pp. 526–527; Marie-Céline Isaïa, "La justice des hommes, celle de l'empereur et celle de Dieu. Expérience et espérances du prêtre Atto", in Maïté Billoré and Johan Picot (eds), *Dans le secret des archives. Justice, ville et culture au Moyen Âge* (Rennes, 2014), pp. 29–46; McComb, "Strategies of Correction", pp. 43–45.

[52]E.g. *Capitularia regum Francorum*, vol. 1, no. 102, c. 16; also vol. 1, no. 82, c. 9 – both envisage only disputes or crimes, that is, cases that might have made it to a public court otherwise.

[53]*Formulae Marculfi*, ed. Karolus Zeumer, *Formulae Merowingici et Karolini Aevi* (Hannover, 1886), II, 27; see also II, 28. For an English translation: Alice Rio, *The Formularies of Angers and Marculf* (Liverpool, 2008).

flogging-free level. Clearly, though, many lords did think that corporal punishment was appropriate in their cases. All this implies that corporal punishment remained as central as ever to the practice of lordship, but at the same time, the sparse treatment of this issue also suggests that it had become less central to its conceptualization. Corporal punishment had lost none of its practical relevance: what it had lost was its meaningfulness, at least in the eyes of contemporary and mostly clerical commentators.

Royal Justice and Royal Estates

This is in marked contrast with the discussion of corporal punishment by officials representing the power of the king, who *were* very much represented as wielding awesome punitive power and whose performance in this area was important to establishing their legitimacy or otherwise. For them, as in the case of bishops or other people in a pastoral role, the deployment of violence remained central and meaningful, regardless of whether it was being presented negatively (as in Theodulf of Orléans's poem *Address to Judges*, in which he criticizes violent punishment and the use of torture) or more positively (as in the anonymous *Poem of Count Timo*, where a count is praised – though possibly ironically – for imposing a range of violent punishments, including judicial mutilation).[54]

As far as punishment in a labour context on fiscal lands was concerned, though, the picture is left just as blank as on ecclesiastical estates. Royal legislation might restate and reinforce the duties of peasants living on fiscal or ecclesiastical lands, much as monasteries did in their polyptychs. But, in either case, the punitive regime backing up these expectations was left very vague. Charles the Bald, for instance, when confronted with situations where some rural tenants (*coloni*) of either the fisc or the church declared themselves unwilling to transport marl, said they had to do it anyway. Still, he did not say what overseers might do to make his ruling stick.[55]

One unusual document is a bit more forthcoming on the punishment of workers on royal estates: the *Capitulare de villis*, issued under the reign of Charlemagne, which contains an idealized description of royal estate management framed as a set of instructions for royal *iudices* (stewards or managers). The impression given in this document is very much that punishment on royal estates should be organized as a mini-version of the kingdom, as a microcosm of correct governance and accountability, including opportunities for complaints and accusations by subordinates and supposedly strict maintenance of the free/unfree divide for purposes of punishment – but

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[54]Both discussed by Patrick Geary, "Judicial Violence and Torture in the Carolingian Empire", in Ruth Mazo Karras, Joel Kaye, and E. Ann Matter (eds), *Law and the Illicit in Medieval Europe* (Philadelphia, PA, 2008), pp. 79–88.

[55]*Capitularia regum Francorum*, vol. 2, no. 273B, c. 29. In discussing labour management, royal legislation ranged beyond the fisc's own lands only very exceptionally and with unknown success. When it did, it mostly did so to back up lords after being asked to intervene, at which point it might confirm the imposition of duties, though without specifying what lords could do to enforce them. For an example (atypical in its ambitions), see Charles West, "Carolingian Kingship and the Peasants of Le Mans: The *Capitulum in Cenomannico pago datum*", in Rolf Grosse and Michel Sot (eds), *Charlemagne. Les temps, les espaces, les hommes: Construction et déconstruction d'un règne* (Turnhout, 2018), pp. 227–244.

even then with the expectation that both free and unfree should be governed by a judicial or quasi-judicial process led by the stewards.[56] The way in which this royal document handled punishment for self-gain, and found a place for it within an idealized framework, was, then, to bring it as close as possible to more public-facing models.

The desire to keep any appearance of profit-seeking as a motive for violence in favour of a more pastoral conception extended even to some cases of judicial punishment, especially if the punishment had to do with protecting royal interests through the imposition of large fines: Charles the Bald, in the Edict of Pîtres (864), stipulated that those who had refused good silver coins but could not afford to pay compensation should not be "weighed down unduly or beyond measure; for, as Scripture says, 'we do not require the amount, but the fruit'; that is, we do not demand dishonest profit, but only what is given to the kingdom for punishment".[57]

Conclusion

Corporal punishment in the Carolingian period remained crucial to how everyone, from the fisc to the churches to the monasteries to the lay lords, extracted work from people. At the same time, it was made ever less *meaningful* compared to the place reserved for it by earlier punishment regimes. Various factors contributed to this. One was the increasing tension perceived between profit-seeking and the correct exercise of punishment in a pastoral context. From monastic rules to the *Capitulare de villis* and Dhuoda, corporal punishment had the potential to increase symbolic authority only insofar as it resembled forms of justice where the punisher could come across as an accountable mini-ruler marshalling a quasi-judicial process not primarily geared towards self-gain. By contrast, punishing peasants at all in a way that was connected primarily to material gain was beginning to be cited as a sign of abuse in itself, for instance, in saints' lives. This was obviously not a realistic way of holding lords to account since all of them, including monastic lordships, obviously did rely on violence for such ends. This conceptual shift is reminiscent of, and likely later fed into, the representation and critique by ecclesiastical sources of eleventh-century "bad customs" and bad lordship, unrestrained by public concerns and selfishly bent on securing its own material advantages.

At the same time, models of "good" lordship no longer really hinged on applying more positive models of corporal punishment either. The relationship of lords with the lowest-ranking of their dependents no longer defined nor illustrated their power, as it had done for the head of household in an earlier Roman context, for whom the enjoyment of near-absolute power over children and slaves had been a significant element in the representation of authority. The correct distribution of gifts and resources at much higher levels of dependence, not the correct application of corporal punishment at lower levels, had become the litmus test of good lordship.

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[56]*Capitulare de villis*, c. 4 (on the punishment of free vs unfree workers); see also c. 16 (on negligent middle management) and 57 (on accusations from subordinates): *Capitularia regum Francorum*, vol. 1, no. 32; for the Latin text with English translation: https://www.le.ac.uk/hi/polyptyques/capitulare/latin2english.html; last accessed 23 April 2022.

[57]*Capitularia regum Francorum*, vol. 2, no. 273B, c. 22.

The Carolingian period, then, draws something very near a blank when it comes to investigating moral regimes of labour exploitation. Lords' practices of punishment of their workers, however real and present in lived experience they must have been, were no longer being taken by leading cultural and political authorities as productive of meaning, whether positive or negative. The ability to exploit, crucial as it was in practical terms, was no longer as important or valued an element in the construction of authority – in fact, it was placed in tension with the more moral and pastoral ends towards which the construction of authority was moving. This explains why the increasing exploitation of peasants went with a decreased interest in sources discussing methods of coercing them and why there is almost no discussion of any economy of punishment as a management tool for this period: in this, the early medieval evidence is very unlike, say, Roman treatises on managing agricultural estates. This adds up to a source base where punishment linked to exploitation was hardly discussed and where the increased coercion and violence that must necessarily have gone hand in hand with the intensification of economic exploitation remains shielded from view.