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Christianity and International Law

AN INTRODUCTION

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Christianity and the Birth of Ambassadorial Deontology: Some Historical Notes

Tiziana Faitini and Dante Fedele

3.1 INTRODUCTION

Embassy lies at the heart of Christianity. Recall the archangel Gabriel, sent as God’s messenger to Mary in the village of Nazareth. This event alone, described in Luke’s Gospel (1:26–37) and represented in lively pictures and sculptures innumerable times, is enough to remind us of the long historical connection between Christianity and diplomacy. And so it is no surprise that, as a specific literature on the ambassador began to develop in early modern Europe, the analogy between diplomats and angels was very frequently used.

The roots of this analogy can be traced back to the writings of the Jewish thinker Philo of Alexandria († c. AD 50), and to the biblical Letter to the Hebrews (1:14), traditionally credited to Paul. It was from the late Middle Ages onward, however, that the analogy really gained currency, in parallel with the development of diplomatic theory and practice. In 1214, Pope Innocent III called legates who had been sent to Southern France to pacify the region troubled by the Albigensian heresy, the “angels of peace and faith.” In about 1230, the French theologian and bishop of Paris William of Auvergne used the example of the ambassadors dispatched by Italian communes to illustrate, in his De universo creaturarum, the role played by angels in carrying out God’s orders. Some years later, in his Liber de doctrina tacendi et dicendi, the Italian judge Albertano da Brescia instructed ambassadors on how to address their recipient drawing on the text of “Hail Mary” and the episode of the Annunciation. During the period between the late fifteenth and the mid-seventeenth century, the analogy became commonplace in the literature on

* Although this chapter is a common work, Sections 3.1 and 3.4 were jointly written, Section 3.2 is by Tiziana Faitini and Section 3.3 by Dante Fedele. This chapter is part of a project of Tiziana Faitini, which has received funding from the European Union’s Horizon 2020 research and innovation programme under Marie Skłodowska-Curie grant agreement No. 665958.
the ambassador that was spreading across Europe; its purpose was usually to confer dignity to the ambassadorial office through its direct comparison with an ideal figure of the Christian tradition.¹

Angels, though, were not the only characters in Christian history invoked to this end. In his De legationibus libri quinque (1548), the German Catholic jurist and theologian Konrad Braun (who would later represent the archbishop of Mainz at the Council of Trent) went even further, mentioning the prophets, the apostles, and even Jesus Christ (defined as the Father’s ambassador). This approach was especially popular among subsequent Catholic authors, like the Polish Krysztof Warszewicki, the Spanish Juan Antonio de Vera y Zuñiga and Christoval de Benavente y Benavides, the Italians Gasparo Bragaccia and Anastasio Germonio, and the Flemish Frederik van Marselaer.²

This endeavor to dignify the ambassador’s office by comparing it to the offices performed by the angels, the prophets, the apostles, and Christ is but one aspect of the multifaceted relationship between Christianity and diplomacy through history. Other (more practical) aspects include the “right of chapel” and the “right of asylum.” The right of chapel allowed for the practice of the ambassador’s own religion, or rather that of his principal, within the host state, and to guarantee his fellow nationals access to the embassy chapel, if not always to his coreligionists among local citizens. The right of asylum extended to the premises of the mission as well as ecclesiastical buildings. The “right of chapel” in particular proved to be an effective tool in the accommodation of religious dissent in early modern Europe, and both of these rights lie at the origins of the idea of the extraterritoriality of diplomatic premises.³

This chapter approaches the connection between Christianity and diplomacy from another viewpoint, exploring the historical formation of ambassadorial deontology in the late Middle Ages. The word “deontology” was coined by Jeremy Bentham at the beginning of the nineteenth century, and its “retroactive” application is, of course, anachronistic. Nonetheless, deontology is useful in that it theorizes duties – and moral duties in particular. And, from the middle Ages onwards, a theory on the duties of the ambassadors, deeply rooted in the Christian tradition of thought on the duties and offices of ecclesiastical ministers, undoubtedly begins to take shape. After a brief survey of this tradition of thought and some notes on the polysemic concept of *officium* (which can be translated as “duty,” “service,” or “office”), the chapter will focus on two jurists, Lucas de Penna († c. 1390) and Bernard de Rosier (1400–75), who played important roles in modeling the public figure of the ambassador and his professional, moral, and juridical duties. Lucas and Bernard were the first authors to deal explicitly with the ambassador’s qualities and behavior, raising questions that were discussed extensively in early modern literature on the ambassador. Their texts, informed by their active participation in political life, built on the legacy of the abovementioned Christian tradition in defining the office of the ambassador, and drew upon the Bible, theological works, and canon law. Analysis of these texts thus provides an important fresh perspective on the contribution made by Christianity to the early shaping of a figure who was to become a leading actor on the stage of international law.

This analysis of the office of the ambassador will also reveal much about the broader issue of the intertwining of theological and juridical theory and practice: two dimensions whose constant, but very nuanced, historical interplay cannot be explained as a purely linear process of either secularization or spiritualization\(^4\). The example of the historical semantic stratification of *officium* is, in this regard, extremely significant. What follows will demonstrate that *officium* was originally a moral and juridical Roman concept, before becoming an institutional and moral linchpin of the medieval Christian church. During the late Middle Ages and the early modern period, the concept of *officium* elaborated within the ecclesiastical and religious hierarchies of the medieval church was used to moralize society as a whole, and also became a crucial element of the emerging statal bureaucracy. Both the concept

itself and the practice of officeholding to which it had given birth were fundamental to the early development of the administrative apparatus of the modern state and to modern political rationality. — not to mention the shaping of the deontological rules for rulers, public officials, and professionals. An intriguing commingling of elements from both the classical and the Christian traditions seems thus to lie at the very foundations of the modern state. Our investigation of the ambassador and his duties will, we hope, include insights into these complex historical processes and their implications.

3.2 OFFICIUM: REFLECTING ON DUTIES AND ROLES IN THE LATIN AND CHRISTIAN TRADITION

The concept of officium was first introduced in Latin by Cicero in the first century BC. The Roman statesman and writer devoted his treatise De officiis to the exploration of this concept, and the decorum and convenientia of human actions intrinsic to it: that personal actions must be seemly and convenient to the situation and the persona (a term which meant both an individual person and a role) who is carrying them out. A clear connection among duty, status, and role can already be discerned here in relation to both individual and public roles. The officium, connected to the duty to probity in the management of others’ affairs, whether as a public official or in one’s private transactions, also entered the Roman law. By the end of the third century, however, the term mainly referred to the duty and tasks connected with a public office or the fulfillment of a function of public interest (which were also called munus publicum or, in some cases, ministerium). Some specific juridical texts – the books de officio – on the duties and functions of imperial officials began to

5 The impact of the classical and ecclesiastical tradition of the officia on the building of the modern state, from the Middle Ages onwards, has been explored from several points of view. In addition to the classic Ernst H. Kantorowicz, The King’s Two Bodies: A Study in Medieval Political Theology (Princeton: Princeton University Press, 2016; orig. publ. 1957), see Udo Wolter, “Officium in Medieval Ecclesiastical Law as a Prototype of Modern Administration,” in Legislation and Justice, ed. Antonio Padoa-Schioppa (Oxford: Oxford University Press, 1997), 17–36, with further references.


circulate, and parts of these texts eventually found their way into the first book of the Digest. The books de officio collected instructions of various kinds, centered on the person of the magistrate or whichever body held authority over the juridical institution in question. They were probably compiled in order to provide various jurisdictions with regulations of immediate interest, and commonly included brief references to the official’s moral integrity. In the Roman context, officium thus referred to a concrete duty rooted in an actor’s social position, and translated explicitly into a worldly function.

It is upon this legacy that the Christian tradition built its own analysis de officiis. In this tradition, worldly functions and ministries were regarded as duties which expressed a transcendent moral imperative; the combination of moral and institutional aspects in the concept of officium thus became even more overt. The first of these works was a treatise written at the end of the fourth century by Ambrose, archbishop of Milan and Doctor of the Church, whose De officiis is explicitly modeled on that of Cicero. Ambrose deals with the same issues as Cicero, but, addressing the honest Christian, rearticulates them in the light of the Gospels; the fundamental values, examples used, authorities cited, and responses given all differ from those of his model.

Ambrose’s main theme is clear: the officium is that which is owed to the community, according to one’s own position and role within it. The body, a crucial metaphor for the conceptualization of officium, is used to refer to mankind and the community of the Church. This trope had been used before by some ancient authors and was introduced into the Christian vocabulary with Paul’s use of the image of the Church as Jesus’s mystical body (1 Cor. 12:6–30). Ambrose remarks that no one member of the body can “claim the function (officia) of any other” without “going against nature”; at the same time, all members “are necessary to the body”. Similarly, within the social or ecclesiastic body, each member, in its own particular way, has to assist the others in a reciprocal service (“mutuo ministerio”): “if one fails in its duty (officio suo), the rest are impeded.” The image of the body implies hierarchical

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9 See Aldo Dell’Oro, I libri de officio nella giurisprudenza romana (Milano: Giuffrè, 1960).
differentiation between its parts but also respect and interdependence. Since each member has a particular duty and function, which cannot be fulfilled by any other, any impairment affects the body as a whole. In these lines, Ambrose anticipates further political elaborations on this metaphor – one of the most influential of which was John of Salisbury’s *Policraticus* (twelfth century). Throughout the Middle Ages, these elaborations provided rulers (and all the various members of society) with instructions on the duties and conduct appropriate to them, and must in fact be understood as central to the history of the deontology of public officials.

At the beginning of the seventh century, another archbishop, the Spanish Isidore of Seville, composed a book entitled *De officiis ecclesiasticis*. Isidore directly addressed the clergy and their function as ministers of the ecclesiastic body and his approach was very specifically ecclesiastic and liturgical. He depicts the sacred order of the clergy according to a precise, hierarchical order of perfection; each ecclesiastic ministry (“ministerium ecclesiae”) is minutely described, from the priest to the lecturer to the married person, from the bishop to the penitent to the catechumen (who was not yet a member of the Christian community). For each of these figures, their biblical origins, particular liturgical tasks, and required moral qualities are outlined. Each *officium* is defined by its combination of these elements, and is an administrative role precisely positioned in the ecclesiastic community, which implies a vocation and requires the person in question to behave in a certain way and to possess certain qualities.

Following in Isidore’s footsteps, the writings on ecclesiologic – and particularly liturgical – *officia* were widely developed in the late Middle Ages. The most important treatise – because of both its comprehensiveness and its popularity – is probably the *Rationale divinorum officiorum*, written by William Durand at the end of the thirteenth century. Its definition of *officium* encapsulates all of the earlier tradition and epitomizes what the *officium* had become by that time:

The *officium*, according to Isidore, is an action proper or appropriate to each person (*proprius vel congruus actus uniuscuiusque persone*) according to the traditions and laws of their polity or profession (*secundum mores et leges*)

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The officia of monks, priests, hermits, etc. are all different. ... Everybody should carry out their own officium, or, according to Isidore, “each person should do those things that are detrimental (officere) to nobody but are of benefit to all.”

Although these lines are from a liturgical treatise, officium is clearly not meant only as a liturgical service: one’s officium belongs to a (public or individual) person and is a set of actions determined by membership of an institutionalized community, whether a city or one of the various religious professions that made up the ecclesiastic community. An officium, moreover, has to be oriented to the common good. As this definition reveals, although the concept of officium originated and was extensively elaborated in the textual tradition touched upon, its scope was much wider. Indeed, canon law and theology were to make the concept central to the division of tasks and states of life within the Christian community and the body politic as a whole – and to the evaluation of the performance of those tasks and the fulfillment of those states, carried out by the sacrament of confession (which the Fourth Lateran Council in 1215 decreed that all Christians had to annually make).

A relevant example of this approach can be found in Thomas Aquinas’s masterwork, the Summa theologiae. The concluding section of its second part includes an analysis of the conditions and states of life (both lay and secular) and of their corresponding officia. In Aquinas, officium has to do with the need for differentiated actions within the community and, in some regards, is very close to the concept of the ministry (ministerium), valid in both ecclesiological and liturgical terms. It expresses a person’s duty to embody, for the common good, the role of which they are the repository and which responds to the needs of others and society as a whole. For this reason, “offices (officia) differ properly in respect of acts that are referred to others; thus a teacher is said to have an office, and so is a judge, and so forth.” And if the officia of judges and teachers are different, their virtues and sins must also differ. The penitential literature that flourished in the same period, thanks to the activity of the Mendicant orders and the concrete development of the practice of the confession, made this fact plainly evident: the analysis (and evaluation) of duties gradually extended to the whole society, in accordance with a broader


spectrum of different social and professional categories that took the lay, ecclesiastical, and religious states into account.

In the process of this long development, the moral and social order found an element of structure in the concept of *officium*, which served as a basis for a division of tasks arranged for the good of the entire body politic. In other words, the *officia* concerned the actions which a specific state or profession (lay or religious) required to be effective. The concept and its corresponding practices draw together the moral and the institutional. Within this semantic and actual context, the medieval jurists’ conceptualization of the public official – and the ambassador in particular – can be more easily understood.

### 3.3 EARLY MODELS OF THE AMBASSADOR AND HIS OFFICIUM: LUCAS DE PENNA AND BERNARD DE ROSIER

These elaborations on the concept of *officium* (with their juridical, institutional, and moral implications) and the careful problematization of the function of each member of the body politic were to be vital to the conceptualization of the ambassador’s function in late medieval legal scholarship. At that time, diplomacy was far from being the organized and theoretically grounded practice we know today. During the twelfth century, the Central and Northern Italian communes had developed a web of diplomatic relations – of which the Lombard League which defeated Emperor Frederick Barbarossa in 1176 is probably the most famous. However, diplomacy was not seen as a career, and did not involve living abroad on a permanent basis. Ambassadors were citizens temporarily entrusted with a commission to carry out a particular mission, which normally consisted of negotiating a treaty or giving a speech. The rules governing these missions were only partly stipulated in local legislation, which showed little interest in this office. It was left to the legal scholars – who were not only university professors but people actively involved in public life, and often sent on diplomatic missions themselves – to lay out the foundations of diplomatic theory. They did this within the context of their expositions on the Roman law texts that Emperor Justinian had collected in the sixth century and that – having been rediscovered in the eleventh century – were studied in Bologna and other medieval universities. These texts did not, however, dedicate any sections specifically to the ambassador. Even the sections *de legato* (i.e., on legates) in the *Digest* and the *Code* concerned internal agents charged with connecting the cities and provinces of the Empire to its center, rather than interstate ambassadors. This meant that jurists, as well as drawing on the few passages related to diplomatic agents, extended – through frequent recourse to analogical reasoning – a number of
rules established in other legal areas to the ambassador. From the late twelfth century on, they referred to the embassy as an *officium* and *munus publicum*, emphasizing the office’s public character and elaborating on its material and institutional aspects: the ambassador’s appointment, the nature and content of the documents with which he had to be provided, his duty to respect his mandate scrupulously, his right to a salary or reimbursement for the expenses and damages incurred during his mission, his immunities and privileges, and the problem of any potential conflicts of personal interest with his diplomatic mission.\(^{18}\)

The personal qualities, specific duties, and actual behavior of the ambassador himself were also fundamental issues, but the Roman law texts made no mention of these aspects and neither, initially, did legal scholars. In fact, Lucas de Penna’s commentary on the *Tres libri Codicis*,\(^{19}\) written in the second half of the fourteenth century, was the first text to explore these deontological questions, and can be considered the first explicit treatment of ambassadorial deontology.

### 3.3.1 Lucas de Penna’s Commentary on the Tres libri

Born in Penne, in Abruzzo, at the beginning of the fourteenth century, Lucas studied law in Naples and held public office in Naples and Central Italy before moving to Avignon as papal secretary, whence he returned in 1377 with the papal Curia. He does not seem to have ever taught at university, but his commentary has all the appearance of a scholarly work and reveals the great breadth of his culture, both legal and extralegal. Of particular interest, however, are some unusual characteristics of the section *de legato* (*Cod. 10.65*) – found nowhere else in the late-medieval legal literature. Before turning to the actual comment on Justinian’s text, Lucas analyses the ambassador’s qualities and behavior, first setting out a list of twenty qualities (*qualitates*) that an ambassador should possess, then another list of twenty precautions (*cautelae*) that he should observe. This discussion, which has no direct connection to the Roman law texts collected in this section of the *Code*, draws heavily upon classical literature (Cicero in particular) and on the Bible and the precepts for

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\(^{19}\) That is, the last three books of Justinian’s *Codex*, which, in the Middle Ages, circulated separately from the other nine books and were included in the last volume of the *Corpus iuris civilis*, called *Volumen*. Here we rely on Dante Fedele, “The Status of Ambassadors in Lucas de Penna’s Commentary on the Tres Libri,” *Tijdschrift voor Rechtsgeschiedenis* 84, no. 1–2 (2016): 165–92.
the clergy laid down in the theological and canonical literature. This highly
innovative approach enabled Lucas to adopt principles developed for other
offices, which had already been elaborated within the Church, to create a basis
upon which to discuss the necessary qualities, training, and ethics for an
ambassador in the carrying out of his officium.

Lucas appropriates the definition of the embassy as an officium already
formulated by previous jurists and tries to clarify its specific features. He
considers this officium to entail the “establishing of friendship, alliance and
peace” between the sender and the recipient of a mission. Here we find our
first example of Lucas’s use of Christian and biblical sources: the definition is
based on the words of the constitution Ego Ludovicus (collected in Gratian’s
Decretum of c.1140), in which Emperor Louis the Pious invited Pope Pascal
I to send him legati. Lucas also recalls the first book of Maccabees, which
mentions the ambassadors that Jonathan sent to Bacchides “to make peace.”

Lucas also quotes the Bible and the Decretum when pointing out that, for any
ambassador to be listened to with favor by his recipient, it was necessary for the
latter to hold him in esteem. In support of his view, Lucas borrows the words of
the Song of Songs (2:10), “my beloved speaketh to me,” and cites a canon in the
Decretum which, arguing that nobody should be forced into monastic life, stated
that “what [someone] does not love he easily despises.” He then goes on to
mention two other canons taken from Gregory the Great concerning bishops
and magistrates: they both point out that the intercessor who displeases the
person to whom he is sent provokes the latter’s anger rather than helping to settle
the dispute. The latter references in particular help to reinforce the idea that,
when choosing an ambassador, it was necessary to take the intended recipient’s
opinion of him into account, lest the mission be compromised. These canons
were frequently alluded to in the literature of the subsequent century.

Lucas believed that nobility was another ambassadorial prerequisite, par-
ticularly that nobility won through wisdom; he refers again to the Bible, and to
the book of Wisdom, arguing that, among all noble things, this quality is the
noblest.

At the beginning of his comment on this section, Lucas observed
that ambassadors should be chosen among jurists and men of great eloquence,

20 Lucas de Penna, Commentaria in tres posteriores libros Codicis Iustiniani (Lugduni: Apud
Joannam Iacobi Juntæ F., 1582), ad Cod. 10.65, 313a, n. 9–10; c. 30 § 1, d. 63; and 1 Maccabees
9:70 (the Bible is always quoted in the Douay Rheims Version, based on the Latin Vulgate).
21 Lucas de Penna, Commentaria, ad Cod. 10.65, 312a, n. 3; and c. 4, C. 20, q. 3.
22 See dictum ante c. 4, d. 49 (from Gregory the Great’s Regula pastoralis) and c. 5, C. 3, q. 7
(from his Moralia in Job).
23 See Fedele, Naissance, 635 n. 39.
24 Lucas de Penna, Commentaria, ad Cod. 10.65, 314b, n. 20.
remarking that the best way to acquire eloquence is to “imbibe” the Holy Scripture. Cicero’s *De oratore* is quoted extensively in Lucas’s discussion of the ambassador’s training, but the Old Testament, the philosopher Boethius, and the *Decretum* are also cited, to support the claim that true eloquence is grounded in wisdom, which mainly consists in the knowledge of philosophy and divine law. Lucas also suggests – in passing – that an ambassador should be able to speak the language of his recipient in order to avoid the use of interpreters. Although brief, this reference is nevertheless noteworthy because the issue – despite its great practical relevance – was otherwise to be ignored in the literature on the ambassador until well into the sixteenth century. Even more intriguingly, Lucas bases his argument on a rule of the Fourth Lateran Council (1215) regarding bishops. As the Roman Church expanded into the Orient after the Crusades, organizational problems had been raised by the coexistence within the same diocese of communities with different languages, customs, and rites; the Council had therefore granted bishops permission to nominate auxiliaries, or even a vicar, who could cater to this diversity by celebrating the divine offices and administering the sacraments. Drawing on this conciliar rule, Lucas exhorts the ambassador to learn different foreign languages in order to be able to dispense with interpreters and carry out his mission “by himself.”

The discussion of the virtues necessary to an ambassador is conducted with constant reference to the Bible, and particularly to *Proverbs*: “as the cold of snow in the time of harvest, so is a faithful messenger to him that sent him, for he refresheth his soul,” while “to trust to an unfaithful man in the time of trouble, is like a rotten tooth, and wary foot.” Stressing the need for the ambassador to be diligent in carrying out his mission, Lucas again cites *Proverbs*: “as vinegar to the teeth, and smoke to the eyes, so is the sluggard to them that sent him.” He also mentions three canons from the *Decretum* in which bishops are exhorted to be zealous and solicitous in fulfilling the task with which they have been entrusted. Lucas then extrapolates to the ambassador the qualities – listed in

28 Lucas de Penna, *Commentaria*, ad *Cod*. 10.65, 312a n. 4; the quotations are taken from Prov. 25.13 and 25.19.
29 Lucas de Penna, *Commentaria*, ad *Cod*. 10.65, 315a n. 21, with quotation of Prov. 10:26.
30 Lucas de Penna, *Commentaria*, ad *Cod*. 10.65, 315a n. 21, with reference to c. 1 and 2, d. 84, and c. 6, d. 85.
the second book of Maccabees – of the former high priest Onias, a “good and virtuous man, modest in his look, gentle in his manners, and graceful in his speech, and who from a child was exercised in virtues.” The most interesting passage, however, is one in which Lucas closely examines the issue of the ambassador’s attire, gestures, and gait. He first states that an ambassador must be decorous in his dress and demeanor, in order to properly manifest the gravity of his office (“ut ... probet debitum suae legationis officium”). Here, again, Lucas refers to Gratian’s Decretum, which reported a canon from the so-called Fourth Council of Carthage according to which a cleric had to demonstrate his profession through his dress and demeanor (“clericus professionem suam et habitu et inessu probet”). The extension of this principle from the clericorum professionem to the legationis officium is explicit here. After reporting this canon, Lucas (as Gratian had also done) then quotes a passage from Augustine in which the latter says that a man’s outward bearing manifests his inner qualities. Next, Lucas adapts some excerpts from De institutione novitiorum, written by Hugh of Saint Victor in the first half of the twelfth century, to the figure of the ambassador. Conceived for the education of the novices in the community of Saint Victor, this text is primarily concerned with the notion of disciplina (how to walk, gesture, speak, eat, drink, and dress) and the idea of harmony between the internal and the external. Lucas focuses in particular on a passage in which Hugh examines some inappropriate behaviors, associating each with a specific defect of the soul, and urging the ambassador to control his outward conduct. He also cites other passages on the need to moderate one’s facial expressions and gestures in order not to subvert the officia of the members of one’s body. Such behavioral precepts and deontological rules were to become very common in the literature on ambassadors and courtiers of the early modern period, a body of work which – drawing on a wide variety of sources – molded European civility. We must not forget, however, that the origins of these precepts and rules can be traced back to medieval monastic and clerical texts, to which De institutione novitiorum was seminal.

31 Lucas de Penna, Commentaria, ad Cod. 10.65, 316a n. 26, with quotation of 2 Macc. 15:12.
32 Lucas de Penna, Commentaria, ad Cod. 10.65, 315a n. 22, with reference to c. 8, d. 41 and Gratian’s dictum.
34 Lucas de Penna, Commentaria, ad Cod. 10.65, 315a n. 22, who draws on Hugh of Saint Victor, De institutione novitiorum, 59, 75, 72 and 74.
Another virtue highly valued by Lucas was “discretion” (or “discernment”) – the patristic and monastic roots of which have been extensively studied by François Dingjan. Lucas focuses in particular on the correct use of words, describing what appears to be a speaking technique for diplomats. He states that “an ambassador must be discreet in everything and learned, following the example of priests” and that he must be able to adapt to different situations and interlocutors and to recognize that the differences between people mean – as Augustin averred and the Decretum reported – that each person needs a different remedy. Numerous references to the Bible, canon law, and classic literature are then made to support the argument that ambassadors need to adapt their style to every audience or occasion. This also necessarily implies the ability to be silent, since (in Gregory the Great’s words) “he who knows how to remain silent when appropriate, knows how to talk opportunely,” while (in those of the Ecclesiastes) “a fool multiplies words.”

Lucas’s text is not simply an amalgam of references that would have been familiar to his contemporaries (although Lucas appears to be the first jurist to use them so extensively); rather, they are part of a discursive strategy that presented principles and precepts taken from authoritative sources and intended as a contribution to the definition of the ambassadorial office, teasing out its moral and intellectual qualities, and establishing precise rules of conduct. Remembering that Lucas’s discussion of these issues is the first of its kind in the late Middle Ages, let us now turn our attention to a short treatise in the following century by the Languedoc canonist Bernard de Rosier, who was the next author to address the topic.

3.3.2 Bernard de Rosier’s Ambaxiatorum brevilogus

Unlike Lucas de Penna’s, Rosier’s career embraced both university teaching and public (especially ecclesiastical) office. Born in 1400, in July 1427 he joined Cardinal Pierre de Foix as the secretary of the mission to Aragon which led to the abdication of the antipope Clement VIII and the end of the Western Schism. Rosier wrote an account of this mission, and subsequently a treatise on the office of papal legate; and in 1435–6, during another

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37 Lucas de Penna, Commentaria, ad Cod. 10.65, 313a–313b n. 11, with reference to d. 58 per totum (regarding the example of priests), and to c. 1, § 4, C. 14, q. 6 (for Augustine’s letter 153).
38 Lucas de Penna, Commentaria, ad Cod. 65. 37b n. 27 (with a quotation from Gregory the Great’s Moralia in Job) and 318b n. 30 (with a quotation from Eccles. 5:2 and 10:14).
mission in Castile, he composed the *Ambaxiatorum brevilogus*. This text remained in manuscript form for centuries, until finally being edited in 1906 by Vladimir E. Hrabar, a Russian historian of international law. Although largely unknown and thus not particularly influential, this text is still well worth studying as it is “the first textbook of diplomatic practice written in Western Europe.” Unlike Lucas’s commentary, the *Brevilogus* is not a work of scholarship. It includes very few references to other texts and no doctrinal discussion; instead, the text directly addresses ambassadors, to whom the author offers practical advice and precepts of conduct. Although implicit, the theological and canonical background to these precepts is indisputable.

After listing the virtues that a diplomat must possess, Rosier considers the rank and authority of ambassadors and their principals and the reasons behind the sending of embassies, going on to detail the phases of a mission, from preparation to homecoming. He emphasizes the public nature of the ambassador’s office, using the expressions *officium publicum* and *publica person[a]*, and repeatedly points out that ambassadors, although they are sent to individual rulers to deal with specific matters, actually realize the “common good” on behalf not just of a single country but of the “universal commonwealth” or the “whole world.” The ancient and Christian concept of *officium*, with its implications for the entire body politic, is implicitly leant upon in these lines. In Rosier’s view, it is precisely because ambassadors work for “public utility” that they enjoy inviolability and the other privileges established by “public authority” and warranted by “both laws” (that is, civil and canon law). Those who hinder them are said to hinder the “public good.”

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43 Bernardus de Rosergio, “Ambaxiatorum Brevilogus,” ch. 6, p. 8 (“Constat et enim ambaxi-atores comunitibus utilitatiis insistere, per eos rei publice universae comoda plurima prove- nie, liet ad singulos et pro particularibus negociis particulariter transmittantur”) and ch. 30, p. 28 (“Ambaxiatorum officium quantum rei publice et toti orbi sit utile, evidencia facti manifeste demonstrat”).

Among the ambassador’s intellectual virtues, Rosier – perhaps even more than Lucas de Penna – attaches crucial importance to “discretion,” which is the focus of much of this work, well worth reading for the insight it provides into the wider framework that underpins his deontological approach.\(^4\) Rosier explains, for example, that, after his first formal address to his recipient, an ambassador must listen carefully to the latter’s reply, and then behave “prudently” during the subsequent discussion. He should wait to be questioned rather than talking first. If he realizes that a question is intended to make him reveal an aspect of the matter which it would be imprudent to divulge or is intended to deceive, he should at the same time not give full explanations, nor completely fail to answer the question (or delay his answer to another day). Throughout his mission, an ambassador must adapt his attitude to the present circumstances and people, and do what is expedient “according to the right judgement of reason,” knowing that “in the things of this world ... discretion is extremely necessary to advance from opposite positions” towards an agreement. Rosier states that awareness of how to proceed in this way is greatly enhanced by direct knowledge of many various peoples and of men’s conditions and affairs, acquired through personal experience in various places and at the courts of great men. Through such experience – we read in one of the rare quotes included in the Brevilogus – ambassadors will become “wise as serpents and simple as doves.”\(^5\) Interestingly, this excerpt from Matthew’s Gospel is used in several passages of Gratian’s Decretum in reference to priests, monks, and, more generally, all men, making the point that, possessing the candor of the dove, they will not intrigue against others, and, possessing the guile of the snake, they will know how to escape the traps of their enemies.\(^6\)

Of interest, too, is the fact that, according to Rosier, discretion can sometimes entail recourse to dissimulation. Although he does not actually use this term, he warns “discreet ambassadors” to ensure that – whatever they might be obliged to listen to – they always answer cautiously and gently, never lose their temper, and never raise their voices or behave insolently. If a negotiation concludes favorably, they should be open in their happiness and great delight. If, on the other hand, a negotiation does not lead to the desired result, they should not therefore refuse any

\(^4\) As well as the passages cited in the next notes, see Bernardus de Rosergio, “Ambaxiatorum Brevilogus,” ch. 2, p. 5; ch. 13, p. 13; ch. 15, p. 15; ch. 16, p. 16.

\(^5\) Bernardus de Rosergio, “Ambaxiatorum Brevilogus,” ch. 14, pp. 14–15, with implicit quotation of Matthew 10.16. Rosier insists on the importance of experience also ibid., ch. 2, p. 5; ch. 10, p. 11; ch. 18, pp. 18–19; and ch. 30, p. 28.

\(^6\) See c. 2, d. 36 (for priests); c. 13, C. 6, q. 1 (for all men); and c. 5, C. 16, q. 1 (for monks).
agreement, unless they have clear instructions in this regard; and, even in these circumstances, they should act with consideration and modesty, and never reveal their passions to their counterpart.48 However, the quote from Matthew’s Gospel and the many references to the “public utility” of embassies reveal that dissimulation was subject to strict limitations. The indications on this question attest to Rosier’s responsiveness to actual practice and his original contribution to political and moral thought. Although theological reflection on the lawfulness of the use of lies, simulation, and dissimulation was already ample in his time,49 in the political literature the issue would be seriously examined only in the next two centuries, when the snake and the dove – although they did not disappear completely – were largely replaced by the lion (representing strength) and the fox (representing cunning).50

Unlike later authors who admitted recourse to deception in pursuit of political goals, Rosier placed his treatment of discretion within a strongly defined moral and ontological hierarchy, based on the twin concepts of (debitus) ordo and (debitus) modus.51 The elaboration of the ethical guidelines he proposes for the ambassadors is thus clearly based on a much wider, theologically inspired framework. “Due order” is, in fact, the stable foundation of not only diplomatic action but all things, since Thomas Aquinas corresponding to the hierarchy of beings and the correct relation between them, and its negation not just the absence of order but evil and sin. As Rosier puts it, following the “due order” means putting the fear of God first, preferring heavenly goods to those of the world and the perpetual over the transient; only by respecting this hierarchy is it possible to act properly. Complementary to the “due order” is the debitus modus, which refers to the dynamism of action in this world. Modus is the manner in which any act should be carried out, and what makes that act what it truly is. Consequently, pursuing high things with cowardice, grave things lightly, sweet things brutally, things of little account pompously, great things carelessly, joyful things with sadness, sad things with hilarity, secret

48 See Bernardus de Rosergio, “Ambaxiatorum Brevilogus,” ch. 15, pp. 15–16; ch. 19, p. 19; and ch. 20, p. 20.
51 See Bernardus de Rosergio, “Ambaxiatorum Brevilogus,” ch. 7, pp. 8–9. We wish to thank Andrea Robiglio (KU Leuven) for his help in the interpretation of this passage.
things openly, and evident things secretly ... all this is to overlook the debitus modus. Since the latter is always related to circumstances, Rosier explains, it cannot be adequately described in writing, only learnt through discretion (“circumpsecta hominis discrecio prudens”), which enables men to act appropriately, in all places, at all times, with everyone. Echoes of Cicero and the scholastics reverberate in this moral exhortation aimed at inspiring the ambassador and guiding him through his daily practice of diplomacy.

3.4 CONCLUSION

This overview indicates that Christian thought on the duties (and the corresponding ecclesiastical practice) intermingled with classical ideas on the (public or individual) roles to shape the actual figures of public officials in late medieval European society. As many scholars have shown, the exercise of judicial and executive functions – crucial to the formation of the modern state and its bureaucracy – was profoundly influenced by this combination. Lucas de Penna’s and Bernard de Rosier’s speculations indicate that this was also true of diplomatic functions. The relation between the first modeling of the status of ambassadors and the Latin notion of officium is evident, as is the use of Christian sources. The Bible, canon law, and the theological literature provided rules and principles upon which to model that status, all in the absence of specific references in Roman law and before humanism led to the rediscovery of the classical authors. From the mid-sixteenth century on, ancient history also provided abundant material, which, alongside and sometimes in lieu of Christian doctrine, greatly contributed to shaping the status of ambassadors in the early modern period. Throughout this period, the literature on the ambassador increasingly debated the moral aspects of the office and gave detailed practical guidelines. Before then, however, the Christian literature had proved a vital source for the elaboration of ambassadorial deontology, providing the necessary material and conceptual tools for the first investigations of this subject.

RECOMMENDED READING


