

# The Senses in Court

## Performativity, Proofs, and Expertise in the Renaissance and the Early Modern Period

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### Abstract

*The growth of written culture between the twelfth and thirteenth centuries made it possible to preserve information on customary lore and on cultures that were expressed and perpetuated through the senses. Once transcribed, these sensory experiences became subordinate to a medium (writing) that claimed to replace their performative and legal efficacy, eventually relegating them to the realm of folklore, superstition, and deviance. Using two case studies, matrimonial litigation and proceedings about sanctity, this article examines the role of the senses in performing and proving legal reality in early modern ecclesiastical courts. It analyzes the dynamics of a sensory community with shared sensory norms, practices, and perceptions. Looking at culturally coded senses as a basis for regulating social relationships and creating and transferring collective memory, I reflect on the hierarchy of the senses that accompanied the process of institutionalization and was marked by gender competition.*

### Keywords

*Ecclesiastical Law, Early Modern Period, Hierarchy of Senses, Legal Practices, Marriage, Sanctity*

»So long as law is unwritten, it must be dramatized and acted«.

*Frederic Maitland*<sup>1</sup>

At the beginning of the thirteenth century, Pope Innocent III imposed a requirement to put on the record any act committed in a judge's presence or committed by the judge himself, on the basis of the principle that »what is not in the record is not in the world«.<sup>2</sup>

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1 Frederic W. Maitland, *Early English Law, 600 AD–1066*, in: James F. Corby, Frederic W. Maitland/Francis C. Montagne (ed.), *A Sketch of English Legal History*, Union 1998, pp. 1–25, p. 18.

2 I would like to thank Kim Friedlander for the linguistic revision of the text, and Alexey Tikhomirov and Andreea Badea for their observations. Abbreviations: ASPV: Archivio Storico del Patriarcato di Venezia; Curia, II: Curia, Sezione Antica; AMP: Actorum Mandatorum, Praeceptorum; CM: *Causarum Matrimoniorum*; FC: *Filciae Causarum*; S: *Sententiarum*; Primo processo per San Filippo Neri, I; II; III: Il primo processo per San Filippo Neri nel codice vaticano latino 3798 e in altri esemplari dell'Archivio dell'Oratorio di Roma edito e annotato da Giovanni Incisa della Rocchetta e Nello Vian con la collaborazione del P. Carlo Gasbarri D. O., Vol. I, Testimonianze dell'inchiesta romana: 1595, Città del Vaticano 1957; Vol. II, Testimonianze dell'inchiesta romana: 1596–1609, Città del Vaticano 1958; Vol. III, Testimo-

These rules, sanctioned by the Fourth Lateran Council in 1215, crystallized an ongoing practice and helped to influence it.<sup>3</sup> In fact, between the twelfth and thirteenth centuries, European culture increasingly resorted to writing.<sup>4</sup> Writing made it possible to preserve information on customary lore and cultures which were expressed and perpetuated through the senses as a whole. Thus, it would be reductive to define them simply as »oral«. Once transcribed, these sensory experiences became subordinate to a medium (writing) that claimed to replace their performative and juridical efficacy, eventually relegating them to the sphere of folklore, superstition, and deviance.<sup>5</sup> This contribution aims to examine the role that the senses played in performing and proving legal reality in Renaissance and early modern ecclesiastical courts in Italy.<sup>6</sup> I chose this geographical area because it represents a context in which institutions remained uniformly Catholic throughout the period examined, and therefore I can analyze a homogeneous series of documents, while the period under investigation makes it possible to retrace the process of bureaucratization carried out by those institutions. This bureaucratization helped to redefine the hierarchy of sensory experiences in terms of their ability to be part of the formation and attestation of the truth. More specifically, I will focus on marriage litigations and trials involving sanctity as two areas of exploration. Marriage litigations were undertaken to verify that a marriage existed. These are causes held in bishop's courts which were initiated *ex instantia* by one of the partners if the other denied the conclusion of a marriage that the plaintiff considered to exist, or if, on the contrary, a partner spread the rumor that there had been a marriage that the plaintiff did not consider to have been concluded. To verify the marriage bond, this litigation sometimes could also involve the verification of virginity or impotence. To understand the genesis of these litigations it is necessary to remember that, until the *Tametsi* decree of the Council of Trent (1563), the consent of the contracting parties alone was sufficient to constitute a valid and sacramental marriage. The contracting parties' consent outweighed the fact that the union was celebrated in public or in private and even the fact that the consent was expressed in words. To all intents and purposes the simple promise of marriage, followed by sexual intercourse, gave rise to

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nianze dell'inchiesta romana: 1610, Testimonianze extra Urbem: 1595–1599, Città del Vaticano 1960; I processi per Santa Francesca Romana: Placido Tommaso Lugano (ed.) I processi inediti per Francesca Bussa dei Ponziani (Santa Francesca Romana) 1440–1453, Città del Vaticano 1945. Emil Friedberg (ed.), Corpus iuris canonici, Decretales Gregorii IX, liber 2, titulus 19, capitulus 9.

- 3 Giuseppe Alberigo/Giuseppe Dossetti/Perikles P. Joannu/Claudio Leonardi/Paolo Prodi (ed.), Conciliorum Oecumenicorum Decreta, Bologna 1991, p. 252.
- 4 Hagen Keller (ed.), Pragmatische Schriftlichkeit im Mittelalter. Erscheinungsformen und Entwicklungsstufen, München 1992; Von Kloster zum Klosterverband. Das Werkzeug der Schriftlichkeit, München 1997; Schriftlichkeit und Lebenspraxis im Mittelalter. Erfassen, Bewahren, Verändern, München 1999. Hagen Keller/Marita Blattmann, Träger der Verschriftlichung und Strukturen der Überlieferung in oberitalienischen Kommunen des 12. und 13. Jahrhunderts, Münster 2016.
- 5 See the stimulating observations in Bernard J. Hibbits, Coming to Our Senses. Communication and Legal Expression in Performance Cultures, Emory Law Journal 41 (1992) 4, pp. 874–959. See also Jean-Claude Schmitt, La raison des gestes dans l'Occident médiéval, Paris 1990. For another approach to the unwritten past, see Lisa Regazzoni (ed.), Schriftslose Vergangenheit. Geschichtsschreibung an ihrer Grenze von der Frühen Neuzeit bis in die Gegenwart, Oldenburg 2019.
- 6 Referring to »Italy«, I am following the usual practice in the English-language scholarly literature on the Italian Renaissance and the early modern period.

a marriage, and the cohabitation of partners of equal status presupposed marriage. Marriage contracts were sometimes registered by notaries or – from the sixteenth century onwards – by parish priests, but this was neither necessary nor sufficient to prove that the bond existed.<sup>7</sup> My second avenue of investigation is an examination of trials involving »true«, »failed«, or »feigned« sanctity. »True« sanctity was ascertained, as we shall see, through various legal proceedings that culminated in papal approval. »Failed« sanctity refers to people who had a reputation for holiness during their lifetime and died accompanied by devotion that came to an end because of a lack of organized support and/or papal approbation.<sup>8</sup> The concept of »feigned sanctity« began to take shape during the fourteenth century, when theologians who wrote about the discernment of spirits proclaimed that there was an urgent need to determine whether people who claimed to have visions, revelations, or special spiritual privileges received them from divine or diabolical sources. Feigned sanctity fell within the Inquisition's competence.<sup>9</sup>

Both matrimonial litigation and processes involving sanctity show how the protagonists and witnesses of the events under debate argue, using sensory experience as performative experience to define evidence and authenticity. The actions undertaken jointly by the judges and the extremely scrupulous notaries, both products »of a juridical-chancellery culture of humanistic imprint, which was very attentive to language as a vehicle of signification«, provide us with documents of extraordinary richness and density.<sup>10</sup> The minute description of events should not be interpreted merely as a concession to the temptation to draw out a narrative or simply as a result of the desire to create »a reality-effect«.<sup>11</sup> Noting facts accurately was a sign of the legal importance of these details for making judgments.<sup>12</sup> Until the legal value of writing completely re-

7 An example of a contested nuptial contract in Cecilia Cristellon, *Marriage, the Church, and its Judges in Renaissance Venice (1420–1545)*, London 2017, p. 1. See, more generally, pp. 159–166. For the support of oral testimony in order to prove a disputed marriage, which had been registered in the curia registers of the patriarchate of Venice see p. 79.

8 For true and failed sanctity, see Miguel Gotor, *I beati del papa. Santità, inquisizione e obbedienza in età moderna*, Firenze 2002, p. 79.

9 The Roman Inquisition pursued feigned sanctity from the end of the sixteenth century onwards. See Anne Jacobson Schutte, *Aspiring Saints. Pretenses of Holiness, Inquisition, and Gender in the Republic of Venice, 1618–1750*, Baltimore 2001.

10 The quotation is from Silvana Seidel Menchi, *I processi matrimoniali come fonte storica*, in: Silvana Seidel Menchi/Diego Quagliani (ed.), *Coniugi nemici. La separazione in Italia dal XII al XVIII secolo*, Bologna 2000, pp. 15–94; pp. 81–82; On marriage litigation more generally, see *ibid.*, pp. 68–82. On verbalization in trials for canonization, see André Vauchez, *Sainthood in the Later Middle Ages*, Cambridge 2015, pp. 51–54. See also Giovanna Fiume, *La »via legale« alla santità. I primi processi di beatificazione di Benedetto il Moro (1591–1626)*, in: *Quaderni Storici*, 34, 100, 1 (1999), pp. 151–172, p. 157. For trials for feigned sanctity, see Anne Jacobson Schutte, *Cecilia Ferrazzi, Autobiography of an Aspiring Saint*. Transcribed, Translated and Edited by Anne Jacobson Schutte, Chicago 1996.

11 Roland Barthes, *L'effet de réel*, in: *Le bruissement de la langue*, Paris 1984, pp. 137–149. See also Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France*, Stanford 1987.

12 Seidel Menchi, *Cause matrimoniali e iconografia nuziale. Annotazioni in margine a una ricerca d'archivio*, in: Silvana Seidel Menchi/Diego Quagliani (ed.), *I tribunali del matrimonio (secoli XV–XVIII)*, Bologna 2006, pp. 663–703.

placed the performative value of the senses, writing itself crystallized a treasure trove of sensory expressions and experiences, precisely because notaries, a professional group who belonged to the same community as the litigants and judges, knew its legal value. During the sensory events, the experiential, performative, participatory, and evidential phases, as well as the role played by a particular single sense, overlapped. Recording these sensorial events in writing crystallized and translated them into descriptions of rituals, the binding value of which was understandable to the attending (and participating) community.

The proceedings that I analyze give access to aspects of sensory life that are rarely documented in other types of records or ego-documents. These sensory facets often were only revealed during a suit, when those who were called to testify on a controversial fact placed it in the same context as facts that has been sanctioned by authorities. The stories told by these people were often fine-tuned by legal experts, who adapted them to the prescriptions of canon law in order to obtain a favorable sentence, or they were distorted by the structure of the interrogation. The fact that procedural sources are codified does not imply that they preclude access to the reality of senses. During the suit, the parties involved in the case called entire networks to testify and evaluate the controversial phenomenon, which was being compared to customary parameters. Although we cannot be certain about the veracity of the statements made in court, to be credible they had to be plausible and thus they reveal the cultural benchmarks of petitioners, witnesses, and judges. Both the witnesses and the parties involved in the case often restated a conception of marriage and of sanctity that contrasted with the type advocated by the Church, expecting that the judges' decisions would conform to their conceptions.<sup>13</sup> The judges evaluated the proofs in compliance with a socially accepted hierarchy of sensory experiences which had the capacity to generate individual and collective emotions, influence consciences, and create the sense of belonging to a community. But these experiences were also likely to be excluded, marginalized, and criminalized in the continuous process of negotiation which took place during the case. The judges examined and interpreted these sensory experiences according to a customary semantic code which was the expression of a community to which the judges also belonged. Their evaluation, however, was also an expression of power (the power of ecclesiastical hierarchies) which affected the value of that code.

My contribution analyzes the everyday dynamics of what I understand as a »sensory community«, that is, a community with shared and negotiated norms, practices, and perceptions of seeing, touching, hearing, smelling, and tasting.<sup>14</sup> I examine these

13 Seidel Menchi, *I processi matrimoniali come fonte storica*, p. 21. See Cristellon, *Marriage, the Church, and its Judges* pp. 5–11 and for bibliography. Observations on the fact that the exceptionality documented in the trial sheds light »on a reality elusive in the documents« are found in Carlo Ginzburg, *Prove e possibilità, postfazione a Natalie Zemon Davis, Il ritorno di Martin Guerre. Un caso di doppia identità nella Francia del Cinquecento*, Turin 1984, pp. 129–154, p. 134.

14 My definition of a sensory community is inspired by Barbara Rosenwein's concept of an »emotional community«, however, I am reshaping this idea to address the sensory dimension of social reality. See Barbara H. Rosenwein, *Worrying about Emotions in History*, in: *The American Historical Review*, 107 (2002) 3, pp. 821–845 and, *ibid.*, *Emotional Communities in Early Middle Ages*, Ithaca, NY 2006. On the link between the history of emotions and the history of the senses: Claudia Jarzebowski, *Tangendo. Überlegungen zur frühneuzeitlichen Sinnes- und Emotionsgeschichte*, in: Arndt Brendecke (ed.), *Praktiken der Frühen Neuzeit. Akteure, Handlungen, Artefakte*, Köln 2015, pp. 392–404.

culturally coded senses as a basis for experiencing, generating, and articulating social relationships and solidarity, creating and transferring collective memory through generations, and making sense of the lives of ordinary people. This analysis reveals a hierarchy of the senses that reflected social differentiation, accompanied processes of institutionalization, and was marked by gender competition.<sup>15</sup>

## The senses and the celebration of marriage

The senses played a key role in juridical practices and customary understandings of the validity of marriage. With the affirmation of the sacramental nature of marriage, which was sanctioned by the ecumenical council of Lyon in 1274,<sup>16</sup> the Catholic Church sought to favor the publication and solemnization of the event, primarily through the readings of the banns and the priest's blessing.<sup>17</sup> In the fifteenth century and for the entire pre-conciliar period, the laity did not comply with this obligation and the Church, though continuing to recommend the practices of proclamations and priestly blessings, seems to have decided not to enforce it.<sup>18</sup> Italian matrimonial litigations clearly reveal the ecclesiastical hierarchy's complete acceptance of a marriage celebrated with a reciprocal exchange of consent, regardless of whether the minister of the rite was an ecclesiastic or a layperson. The free consent of the couple was the only thing required for the validity of the marriage and this consent gave it sacramental value.<sup>19</sup> Touch played a major role in the stipulation of nuptial consent, in line with a diffuse culture that considered it the »basis for other senses«, although according to the Aristotelian hierarchy of the senses and its medieval interpretation, touch occupied the lowest level.<sup>20</sup> The union of the spouses' hands was part of ancient Roman wedding ceremonies, but

15 On the fact that social orders also always construct sensory orders, see Constance Classen, *Foundation for an Anthropology of the Senses*, in: *International Social Science Journal* 153 (1997), pp. 401–421; Andreas Reckwitz, *Die sinnliche Organisation des Sozialen*, in: Hanna Göbel/Sophia Prinz (eds.), *Die Sinnlichkeit des Sozialen. Zum Verhältnis von Wahrnehmung und Materialität*, Bielefeld 2015; Daniela Hacke/Ulrike Kramp/Jan-Friedrich Missfelder, *Can you hear the light? Sinnes- und Wahrnehmungspraktiken in der Frühen Neuzeit. Zur Einführung*, in: Arndt Brendecke (ed.), *Praktiken der Frühen Neuzeit. Akteure, Handlungen, Artefakte*, Köln 2015, pp. 386–390.

16 Heinz Denzinger/Peter Hunerman, *Enchiridion, symbolorum definitionum et declarationum de rebus fidei et morum*, Bologna 1995, pp. 488–489, fn. 860.

17 For a synthesis of the construction of Christian marriage, see Christina Deutsch, *Ehegerichtsbarkeit im Bistum Regensburg (1480–1538)*, Köln 2005, pp. 29–38; Mia Korpiola, *Between Betrothal and Bedding. Marriage Formation in Sweden, 1200–1600*, Leiden 2009, pp. 89–118; Charles Donahue Jr., *Law, Marriage, and Society in the Later Middle Ages. Arguments about Marriage in Five Courts*, Cambridge 2007; Cristellon, *Marriage, the Church and its Judges*.

18 Christiane Klapisch-Zuber, *Women, Family and Ritual in Renaissance Italy*, Chicago 1995, pp. 178–212; David D'Avray, *Marriage Ceremonies and the Church in Italy after 1215*, in: Trevor Dean and Kate J. P. Lowe (eds.), *Marriage in Italy, 1300–1650*, Cambridge 1998, pp. 85–106, and Daniela Lombardi, *Matrimoni di Antico Regime*, Bologna 2001, pp. 35–41.

19 Cristellon, *Marriage, the Church, and its Judges*, pp. 159–166.

20 Hibbits, *Coming to Our Senses*, p. 925 notes that even seeing was understood as a form of touching. For an introduction to the hierarchy of the senses, see Robert Jütte, *Geschichte der Sinne. Von der Antike bis zum Cyberspace*, München 2000, pp. 65–81.

only in the Middle Ages did the touching of hands become a sign that the marriage had been concluded.<sup>21</sup> Indeed, until the Council of Trent's decree *Tametsi* (1563), for the laity the simple touching of hands celebrated the wedding, became a symbol of marriage, and, in everyday language »to touch the hand« signified – and generally substituted for – the expression »to marry«. The day »that they touched each other's hands« and »without otherwise giving the hand« were the expressions with which the parties commonly introduced their discourse about their own marriage.<sup>22</sup> By sticking a hand out of a hole in the wall of the house to unite it with that of the groom, a young woman who was kept sequestered sought to conclude her marriage without being seen by her relatives. In the eyes of the laity, a ceremony without the touching of hands did not seem sufficient to begin a marriage.<sup>23</sup> A hand pulled back in an impulsive gesture became a symbol of denied consent in cases of »fearful« (*meticulosum*) marriage.<sup>24</sup> The impossibility that hands had been united rendered a union unlikely. For example, »If one says that Michiel had touched [Virida's] hand«, as a neighbor woman insinuated, »how did he do that? From the balcony with a rod?« This statement quickly silenced the suspicions of a certain Lucrezia, who thought the two young people had gotten married, which was unlikely, since the girl was sequestered in the house and could not physically shake hands with her lover.<sup>25</sup> Just as a marriage was celebrated with the union of the hands, an annulment was legally depicted with two hands that are separate.<sup>26</sup>

Even though doctrine recognized both gestural and verbal expressions of consent as valid, for the entire fifteenth century the Venetian tribunal, which was one of the most important Italian tribunals, denied that the touching of hands had the ability to express free consent, even if it was accompanied by a ceremony celebrated in the presence of witnesses, which guaranteed a certain publicity for the event.<sup>27</sup> A marriage contracted by touching hands (*per tactum manuum*) would inevitably be declared invalid in favor of a later contract made with words (*per formam verborum*).<sup>28</sup> Nevertheless,

21 Jan Gaudemet, *Le mariage en Occident*, Paris 1987, pp. 27–29.

22 ASPV, CM, vol. 12, *Camilla de Dardanis vs Alovio Donati*, 1512. On the fact that »touch was a critical, authenticating sense in some ancient and modern legal systems«, see Marc M. Smith, *Sensory History*, Oxford 2007; Hibbits, *Coming to Our Senses*.

23 ASPV, CM, vol. 18, *Paula q. magistri Boni Veronensis vs Victore barbitonsore*, 1516; CM, vol. 18, *Maria Laurentii vs Francisco de Thomasiis*, 1516. In the first case, the man declared that he had promised to marry his concubine, but he did not give her his hand; in the second, the man had verbally made proposals of marriage before witnesses »but never took her hand, nor did he accept her as his wife« (»tamen numquam illi tetigit manum, nec eam in uxorem accepit«). See Silvana Seidel Menchi, *Cause matrimoniali e iconografia nuziale. Annotazioni in margine a una ricerca d'archivio*, in Silvana Seidel Menchi/Diego Quaglioni (ed.), *I tribunali del matrimonio (secoli XV–XVIII)*, Bologna 2006, pp. 663–703, p. 683.

24 ASPV, CM, vol. 2, fasc. 3, *Vittore de Sanctis vs Maria*, 1459.

25 ASPV, CM, vol. 27, *Michaelis Salomono vs Virida Superantio*, 1529.

26 Hibbits, *Coming to Our Senses*, p. 917.

27 ASPV, CM, vol. 1, fasc. 11, *Isabetta vs Jacopo da Marignano*, 1454.

28 ASPV, AMP, reg. 11, *Maria di Canareggio vs Battista cerviate*, 26 May 1446. In ASPV, S, reg. 1, *Pietro de Dulcino vs Filippa*, the marriage was declared invalid both because of force and fear (*vim et metus*) »before and after the giving of hands« (*ante et post dationem manuum*) and because the parties had not exchanged words of consent.

someone who wanted to see the validity of his own marriage recognized by a judge did not always claim that it had been celebrated with words of consent, but instead attempted to obtain a favorable judgement simply by declaring that the bride had touched his hands.<sup>29</sup> Sometimes the spouses did not even remember whether words of consent had been spoken and they asked for witnesses to be interrogated for greater clarity.<sup>30</sup> There were also those who did not understand the importance of formulas of consent and calmly repeated them to the judge, even claiming that there had not been a marriage. In one case, the interjection by a lawyer – who sought to attribute the error to his client's testimony, claiming that they were not talking about consent but only about the touching of hands – arrived late.<sup>31</sup> In the first decades of the sixteenth century, the ecclesiastical tribunal began to assume a different attitude towards the touching of hands, probably taking into consideration the symbolic value that this gesture continued to enjoy among the faithful. Not only did judges begin to value the use of this gesture as an expression of nuptial consent, they considered the expressions »to give the hand« and »to marry« equivalent: In an injunction to the parish priest of Burano to stop a marriage between two young people, the vicar of Torcello ordered the parish priest not to allow them »to take hands«, either in the church in Burano or in their parish. In 1508, a judge reminded the »Greek« Arsenio, who wanted to leave his »dishonest« wife, that »if he had given her his hand« he could not »separate himself from nor leave« her.<sup>32</sup> From the fifteenth century onward, there were other specific forms of touching that also characterized nuptial ceremonies, which began, in the sixteenth century, to spark the interest of magistrates who were particularly attentive to customs. Judges seemed not only to attach circumstantial value to these gestures, but also considered them constitutive of the marital bond. Such was the case with the nuptial kiss, an important confirmation of spousal consent and one that alluded to the consummation of marriage, which in fact the spouses exchanged with embarrassment and only because they were induced to do so by their relatives.<sup>33</sup> The kiss also assumed a role in peacemaking and in sealing an alliance. The spouses affirmed this, and the groom demonstrated it when he kissed the bride's family as well.<sup>34</sup> In short, different

29 ASPV, AMP, reg. 9, Zanino Tomei Togazi vs Maria q. Nicolai de Villa, 30 January–27 November 1441.

30 ASPV, AMP, reg. 18, Paola di Benedetto d'Armano vs Giorgio Monta. In ASPV, CM, vol. 3, fasc. 4, Paolo Gabrieli vs Isabetta Bartolomei, 1470. Paolo presented himself before the patriarch, recalling that nine years earlier a woman had made him touch Isabetta's hand. He had not however expressed words of consent. He considered himself married to her, but Isabetta did not. They were fighting about this (»in lite«) with »precepts and decrees« (»precetti e mandati«) before the vicar, and now the plaintiff asked for clarity and requested that the marriage be declared invalid. His request was granted.

31 ASPV, AMP, reg. 3–4, Lazzaro da Scutari vs Caterina Cortese, 20 February 1426 and June 1427.

32 »Greco«, »inhonesta«, »se lui li aveva dado la man«, »separarse né partirse«. ASPV, FC, vol 2, Jacobina vs Giovanni Battista Donati, 1508.

33 ASPV, CM, Nicolò Dominici Cortesii vs Angela Sebastiani Cavazza, 1503–1508.

34 In 1551, in a ritual of peace between two families from the Bolognese countryside, which concluded with the betrothal of two of their members, there was a taking of hands and a kiss of peace between the men of the two houses. See Lucia Ferrante, *Il matrimonio disciplinato: processi matrimoniali a Bologna nel Cinquecento*, in: Paolo Prodi (ed.) *Disciplina dell'anima, disciplina del corpo e disciplina della società tra medioevo ed età moderna*, Bologna 1984, pp. 901–927, p. 915. In Innsbruck in 1529, a solemn peace between two families from Trent was stipulated »by the taking of hands and the kiss of peace« (»per tactum manus et osculum pacis«). See Marco Bellabarba, *Racconti famigliari. Scritti*

types of tactile practices created family ties and became a code that regulated social relations. The great importance of shared taste – eating a meal together and sharing a chalice of wine – likewise played a role in the formation of a nuptial alliance.<sup>35</sup> Wine's symbolic value is probably attributable to the fact that it was drunk when contracts were concluded.<sup>36</sup> However, because wine is also a sign of the love that spouses have for each other in the Bible (Sg 1, 2–4; 7, 3–10; 8, 2) and is an allusion to the wedding at Cana (Jn 2, 1–10), it was used in nuptial ceremonies across Europe, even in those regions of Germany where beer was the usual drink in everyday circumstances.<sup>37</sup> With the nuptial banquet (made up mostly of sweets, cookies, and sometimes wild fowl captured by the groom),<sup>38</sup> the couple began a relationship based on faith (*fides*), of which the bride was the guardian.<sup>39</sup> Cooking meals was her responsibility, a role that recognized her as the wife even if her husband had a concubine.<sup>40</sup> Only separation – which, not by coincidence, was defined as the separation of bed and table – sanctioned the end of this bond of fidelity. Along with the dimensions of touch and taste, the acoustic component of the wedding also played an important role in both attesting to the partners' consent and publicizing the bond; the latter was not necessary for validity (*ad validitatem*), but for honesty (*ad honestatem*). In the period after the wedding, music and songs were a way for the spouses to communicate, thereby beginning the ritual of familiarization.<sup>41</sup> The husband spent three or four days at his wife's home in festive company.<sup>42</sup> Shared meals were accompanied by songs sung by the husband, who was joined by some of those present, but not by the wife, who instead chose the melody she preferred. The community interpreted this dialogue between the spouses as a sign that each of the spouses consented to the union. On the other hand, in order to communicate and certify the publicity of the union to the community, noisy and festive processions complemented by the sound of drums and wind instruments were organized to accompany the wedding party. These also had the cathartic function of warding off misfortune

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di Tommaso Tabarelli de Fatis e altre storie di nobili cinquecenteschi, Trento 1997, p. 125. On rituals of pacification in general, see Ottavia Niccoli, *Perdonare. Idee, pratiche, rituali in Italia tra Cinque e Seicento*, Roma 2007.

35 ASPV, CM, vol. 9, Nicolosa Calderaria vs Pietro Girardi, 1507.

36 This is particularly true of contracts of sale. See Émile Chénon, *Recherches historique sur quelques rites nuptiaux*, in: *Nouvelle revue historique de droit français et étranger*, 36 (1912), pp. 573–660, p. 649, and more generally, on the symbolic importance of drinking wine at a wedding, pp. 648–650.

37 Ludwig Schmugge, *Ehen vor Gericht. Paare der Renaissance vor dem Papst*, Berlin 2008, p. 68.

38 »Bozolari e storti« ASPV, CM, vol. 11, Isabetta vs Jacopo da Marignano, 1454. »Bozolao« or »buzzolà« is the Venetian term for *ciambelle*, doughnuts, or other similarly shaped confections. On the symbolic value of fowl, see Allen Grieco, *From Roosters to Cocks: Italian Renaissance Fowl and Sexuality*, in: Sara Matthews Grieco (ed.), *Erotic Culture in Renaissance Italy*, London 2009, pp. 89–140.

39 On the nuptial banquet, see Susan F. Weiss, *Medieval and Renaissance Wedding Banquets*, in: Martha Carlin/Joel T. Rosenthal (ed.), *Food and Eating in Medieval Europe*, London 1998, pp. 159–174. On the symbolic significance of the banquet and offering food, see Anna Maria Nada Patrone, *Il cibo del ricco e il cibo del povero, Contributo alla storia qualitativa dell'alimentazione. L'area pedemontana degli ultimi secoli del Medioevo*, Torino 1981, pp. 455–473.

40 Cristellon, *Marriage, the Church, and its Judges*, pp. 164–166.

41 Weiss, *Medieval and Renaissance Wedding Banquets*.

42 »De briga[ta]«.



and ensuring the couple's fertility.<sup>43</sup> In the sixteenth century, the presence of a priest at weddings became more frequent and had a greater legitimating force.<sup>44</sup> After a passionate debate, with the decree *Tametsi* (1563) the Council of Trent imposed several requirements: a priest had to celebrate the marriage; the banns should be read for three Sundays preceding the wedding; two or more witnesses had to be present at the marriage; and the act should be recorded in writing in the parish register.<sup>45</sup> The absence of the priest and witnesses rendered the parties unable to contract the marriage, thereby nullifying the bond. The bureaucratization of marriage emptied the tactile phase of the contract of meaning (and validity) in order to enhance the value of verbal expression verifiable through transcription – and therefore the value of hearing and seeing. The value of hearing and seeing was amplified to such an extent that, surprised by two lovers intent on avoiding parental opposition, who were trying to get married instantly by saying the words of consent in his presence, the parish priest ran away so as not to hear in an attempt to void the act.<sup>46</sup> The new rules were not internalized immediately. The first decades following the council, in fact, were characterized by a vigorous campaign to repress the ancient wedding customs symbolized by the touch of the hand.<sup>47</sup> In the eyes of the faithful, however, this gesture retained a strong performative value. Ottavia Niccoli noted that even in 1592 it was commonly believed in Senigallia (near Ancona) that »after having taken the hand one cannot turn around«.<sup>48</sup> As late as the beginning of the seventeenth century, a Venetian parish priest significantly called the wedding register of his parish »the book of hand giving«:<sup>49</sup> Here the written record of the marriage replaced the legal value of the tactile expression of consent, but the priest tried to incorporate it in order to make the new rule acceptable and understandable – probably even to himself.

43 Myriam Greilsammer, *L'enverse du tableau: mariage et maternité en Flandre médiévale*, Paris 1990, pp. 156–164. Ermanno Orlando, *Sposarsi nel medioevo. Percorsi coniugali tra Venezia, mare e continente*, Roma 2010. See also ASPV, AMP, vol. 19, Franceschina Lando vs Giovan Battista Ferro, 1518–1519. For Jewish ceremonies, see Roni Weinstein, *Marriage Rituals Italian Style. A Historical Anthropological Perspective on Early Modern Italian Jews*, Leiden 2004, pp. 358–363.

44 Cristellon, *Marriage the Church, and its Judges*, p. 164.

45 Here I limit myself to noting that the *Tametsi* decree was voted in with one-fourth of the assembly voting against it, which was the only time that happened at the council. See Gabriella Zarri, *Recinti. Donne, clausura e matrimonio nella prima età moderna*, Bologna 2001, p. 209.

46 Cecilia Cristellon, *Does the Priest Have to Be There? Contested Marriages Before Roman Tribunals. Italy, Sixteenth to Eighteenth Centuries*, in: *Österreichische Zeitschrift für Geschichtswissenschaften* 3 (2009), pp. 10–30.

47 Sara Luperini, *La promessa sotto accusa* (Pisa 1584), in: Seidel Menchi/Quaglioni, *Matrimoni in dubbio*, pp. 363–394. Seidel Menchi, *Cause matrimoniali e iconografia nuziale*, p. 703.

48 Ottavia Niccoli, *Baci rubati. Gesti e riti nuziali in Italia prima e dopo il Concilio di Trento*, in: Sergio Bertelli/Monica Centanni (ed.), *Il gesto nel rito e nel cerimoniale dal mondo antico ad oggi*, Florence 1995, pp. 224–227.

49 Francesca Cavazzana Romanelli, *Matrimonio tridentino e scritture parrocchiali. Risonanze veneziane*, in: Silvana Seidel Menchi/Diego Quaglioni (ed.), *I tribunali del matrimonio (secoli XV–XVIII)*, Bologna 2006, pp. 731–766, p. 748.

## The senses and sanctity

As we have seen, touch lost its contractual value in the stipulation of sacramental marriage, but it maintained its value within a regime of »medical pluralism« and within a religiosity fed by contact with images and relics.<sup>50</sup> This is the case both when this religiosity remains within the parameters prescribed by orthodoxy and contributes to the proclamation of holiness and when it is condemned as superstitious in trials for superstition or »feigned sanctity«.<sup>51</sup> The sensory dimension of religion was essential in the construction and perception of holiness, since the senses were located at the intersection of »the secular and the sacred, matter and ›spirit‹, body and soul, health and salvation«.<sup>52</sup> Simon Ditchfield underlines the »necessity of viewing the cult of saints as a synaesthetic experience involving all the senses« and thus requiring analysis of a multisensory language.<sup>53</sup> I will use this approach in the following paragraph. The legal precondition for canonization is the miracle.<sup>54</sup> Canonization is an act that falls to the pope. At the end of the thirteenth century the process of canonization was fixed in two main moments: an informative investigation which was carried out in the places where the aspiring saint was born, lived, and died, and a curial procedure which took place in Rome under apostolic authority. In fact, promoters of a cult could induce the bishop to start an initial inquiry (*informationis et inquisitionis*) to verify precisely the prospective saint's reputation for holiness. After ascertaining its truthfulness, the bishop sent the proceedings to Rome, where the pope entrusted the cause for canonization to three cardinals, who pronounced on the legal validity of the diocesan cause,

50 The concept of therapeutic pluralism has been used by Peter Burke to analyze an eclectic approach to healing in early modern period. See Peter Burke, *Rituals of Healing in Early Modern Italy*, in: *The Historical Anthropology of Early Modern Italy: Essays on Perception and Communication*, Cambridge 1987, pp. 207–222. See also David Gentilcore, *Contesting Illness in Early Modern Naples. Miracoli, Physicians and the Congregation of the Rites*, in: *Past and Present* 148 (1995), pp. 117–148 and, by the same author, *Healer and Healing in Early Modern Italy*, Manchester 1998, pp. 1–29; Paola Vismara Chiappa, *Miracoli settecenteschi in Lombardia tra istituzione ecclesiastica e religione popolare*, Milano 1988; Maurizio Sangalli, *Miracoli a Milano, I processi informativi per eventi miracolosi nel Milanese in età spagnola*, Milano 1993; Albrecht Burkhardt, *Les clients des saints. Maladie et quête du miracle à travers le procès de canonisation de la première moitié du XVIIe siècle en France*, Rome 2004.

51 On »feigned sanctity«, see Jacobson Schutte, *Aspiring Saints*. In the early modern period, feigned sanctity could be considered the fruit of diabolical deception, but it could also be seen as the result of melancholy humors, and in medical forensic evaluation it was considered a genuine illness. Among the people sent from the Holy Office to the Hospital of Santa Maria della Pietà in Rome there are in fact cases of simulated sanctity and false prophesying. See Lisa Roscioni, *Il governo della follia. Ospedali medici e pazzi nell'età moderna*, Milano 2003, p. 212.

52 Wietse de Boer and Christine Göttler, Introduction. *The Sacred and the Senses in the Age of Reform*, in: Wietse de Boer/Christine Göttler (eds.), *Religion and the Senses in Early Modern Europe*, Leiden 2013, pp. 1–13, pp. 2–3.

53 Simon Ditchfield, *Thinking with Saints. Sanctity and Society in the Early Modern World*, in: François Meltzer/Jas Elsner (eds.), *Saints: Faith without Borders. A Critical Inquiry*, Chicago 2011, pp. 157–190, p. 159.

54 Miguel Gotor, *Chiesa e santità nell'Italia moderna*, Roma 2004, p. 108 and, by the same author, *I beati del papa. On miracles*, see Sofia Boesch Gajano/Marilena Modica (eds.), *Miracoli: dai segni alla storia*, Roma 1999.

the evidence of miracles, and the validity of virtue. The other cardinals came to their own conclusions on the basis of the delegates' reports, but the final decision was made by the pope, who also announced the date of the liturgical feast and the promulgation of the bull of canonization.<sup>55</sup> The decrees of the Council of Trent recognized the bishop's jurisdiction over new proposals for sanctity at the local level on the basis of a thousand-year-old ecclesiastical tradition – a tradition against which, however, a frontal attack would be launched from the end of the sixteenth century on. In order to set in motion the complex gears that could lead to the honor of the altars, the public reputation for holiness was a necessary prerequisite.<sup>56</sup> The reputation for sanctity often spread during the future saint's lifetime and it was associated with his or her presumed thaumaturgical and therapeutic abilities, especially the ability to do faith healing. Sometimes the aspiring saint was interested in nourishing this reputation, making him/herself the prudent administrator of his/her own charisma during his/her lifetime, in particular when he belonged to a mendicant order and his charisma guaranteed success when begging.<sup>57</sup> Faith-healing abilities were often associated with olfactory sensations, which attest to the divine origin of this ability: according to tradition, the sense of smell was the most suitable sense for grasping the spiritual nature of a phenomenon.<sup>58</sup> This belief originated in a passage from Genesis (Gn. 2, 7), »Then the Lord God formed a man from the dust of the ground and breathed into his nose the breath of life, and the man became a living being«. For example, after healing an agitated woman by placing his hands on her head, Filippo Neri's hands stank of sulfur, that is, from traces of the demon who had fled.<sup>59</sup> When he met a certain »bad woman« on the street, »being so strong the stench of vice«, the future saint covered his nose with a handkerchief and when he heard confessions, he told the faithful that he was able to smell their sins.<sup>60</sup> This assertion was so convincing that those who were at fault sometimes avoided him so that their wrongdoings would not be discovered simply from his sense of smell.<sup>61</sup> If the sense of smell was able to grasp the demonic, however, it also managed to make known a divine quality. Those who visited Filippo Neri while he was sick in bed, for example, while fearing the stench that comes from disease and the aspiring saint's advanced age, instead found themselves enveloped in a sweet scent, and

55 Here I am giving a very brief summary of the accurate analysis of André Vauchez, *Sainthood in the Later Middle Ages*, Cambridge 2015, pp. 33–55. See also Simon Dietchfield, *How Not to Be a Counter-Reformation Saint*, in: *Papers of the British School at Rome*, LX (1992), pp. 379–422; Thomas Wetzstein, *Heilige vor Gericht. Das Kanonisationsverfahren im europäischen Spätmittelalter*, Köln 2004. For the procedure after the Congregation of the Rites was constituted, see also Birgit Emich, *Roma locuta – causa finita? Zur Entscheidungskultur des frühneuzeitlichen Papsttums*, in: *Brendecke, Praktiken der Frühen Neuzeit*, pp. 635–645.

56 On community accreditation, see Sofia Boesch Gajano, *La santità*, Roma 1999, pp. 77–78.

57 Gotor, *I beati del papa*, p. 43.

58 Jütte, *Geschichte der Sinne*, p. 79. On the olfactory component of the cult of saints in medieval Christianity, see Jean-Pierre Albert, *Odours de sainteté: la mythologie chrétienne des aromates*, Paris 1990; more generally, see Susan Ashbrook Harvey, *Scenting Salvation. Ancient Christianity and the Olfactory Imagination*, Berkeley 2006, pp. 201–220.

59 *Il primo processo per San Filippo Neri*, III, pp. 112–113.

60 *Ibid.*, p. 244.

61 Giacomo Bacci, *Vita di San Filippo Neri fiorentino fondatore dell'Oratorio scritta da P. Pietro Giacomo Bacci li. II, cap. XII, n. 13*, p. 139.

many of the faithful declared that they had received a spirit of devotion simply from smelling the perfume emitted by his hands and chest.<sup>62</sup> After the prospective saint's death, his/her reputation for holiness was often organized, conveyed, and sometimes reinvented by a variety of people: members of the same order as the deceased when he belonged to the regular clergy; his/her family; his/her spiritual father and the circle of faithful which had formed around the charismatic figure; and the political authorities who were making efforts to nourish and sustain his or her cult.<sup>63</sup> Sensory experience plays a fundamental role in this process of cult formation. Touch is of primary importance. On being informed that someone famed for sanctity had died, the faithful paid homage to the coffin by carrying out a series of »homogeneous and socially transversal« ritual acts such as touching the body of the deceased, kissing it, and tearing off pieces of the body, hair, or clothing. In the wake of a long tradition, the faithful testified through these ritual acts that they believed the charismatic powers attributed to the aspiring saint in life continued after his/her death, thus proving his/her holiness.<sup>64</sup> During these ritual contacts, however, the tactile sensation was important because it attested to the absence of rigor mortis, which characterizes the body of the saint, a body that is not subject to the laws of decomposition: there were those who found it »soft like a chamois« (1502) and those who certified that it »felt like living human flesh«.<sup>65</sup> Sometimes the enthusiasm of the faithful made it necessary to protect the corpse. This happened with the body of Bartolomeo da Saluzzo, who was »watched over by the guards because the people who came in a crowd not only took away his clothes, but also took away his flesh« (1602).<sup>66</sup> And if the first miracles were attested on the sepulcher by direct contact, others occurred at a spatial and temporal remove thanks to the power of relics, things that were torn off the body, donated, stolen, or sold.<sup>67</sup> There were those in the crowd who, unable to touch the remains directly, tried to touch them, at least with a rod, and those who instead put their rings on the fingers of the deceased for a moment and then returned them to their own fingers.<sup>68</sup> Liquids which came out of the tomb were used as ointments to be distributed to the sick,<sup>69</sup> who could also benefit from the application of fabrics soaked in the blood of the deceased.<sup>70</sup> These practices ranged from drinking a glass of water in which a piece of his/her garment had been pulverized to ingesting one of his/her teeth and contact with his/her

62 Il primo processo per San Filippo Neri, II, pp. 102, 103.

63 Examples can be found in Gotor, *I beati del papa*, pp. 43–126.

64 Ibid., p. 51.

65 See Ottavia Niccoli, *La vita religiosa nell'Italia moderna. Secoli XV–XVIII*, Roma, Carocci, 1998, p. 28 and *I processi per Santa Francesca Romana*, p. 106.

66 Grazia Biondi, *Nostra Madre di Consolazione e le altre*, in: Guido Dall'Olio/Adelisa Malena/Pierroberto Scaramella (ed.), *Per Adriano Prosperi. La fede degli italiani*, Pisa 2010, p. 578.

67 On cult of relics, see Arnold Angenendt, *Heilige und Reliquien. Die Geschichte ihres Kultes von frühen Christentum bis zur Gegenwart*, München 1994; Luigi Canetti, *Frammenti di eternità. Corpi e reliquie tra Antichità e Medioevo*, Roma 2002.

68 Gotor, *I beati del papa*, p. 43. Il primo processo per San Filippo Neri, I, p. 67.

69 Ibid. p. 46.

70 Il primo processo per San Filippo Neri, II, pp. 18, 131, 153, 187. See also the »Miracle of the Blood of Saint Bernardino of Siena«, Meister des Wolfgangsaltars, Nürnberg (1452/60), Bayrische Staatsgemäldesammlungen, München.

clothing: for example, a woman recovered from a terrible headache by putting one of Carlo Borromeo's slippers on her head.<sup>71</sup> It is therefore understandable that, according to a report written in 1602, the greatest favor that one could do for a friend was to give him or her some, albeit minimal, piece of something that had belonged to the bishop of Milan. For example, a gentlewoman who purchased Borromeo's garment made a petticoat for herself and used the rest of the fabric to make small gifts for acquaintances.<sup>72</sup> The visual experience of worship was also very important for increasing the aspiring saint's renown and could merge with tactile experiences. There were those who saw a »great splendor around the head« of the prospective saint on the day of his or her death; the sepulcher was lit up with candles and illuminations and honored by images of the revered one, who was depicted with an aureole, a nimbus, or bright sparks.<sup>73</sup> These images were also available for display in individual homes for private worship, in which the tactile component was a significant element.<sup>74</sup> From the Middle Ages on, »pictorial canonization« was widespread: the very fact that the deceased was depicted in this way increased his/her charismatic capital and induced people to venerate him/her, which helped to increase his/her chances of achieving the honors of the altar and crowned his/her reputation for holiness.<sup>75</sup> In some cases of feigned sanctity, pictorial representation helped to promote one's own image. Cecilia Ferrazzi, for example, had her portraits retouched to make her look like Teresa d'Ávila and the Virgin of the Arrows.<sup>76</sup> The faithful, convinced that they had received grace, deposited ex-votos around the sepulcher. These, by attesting to his or her previous thaumaturgical efficacy, encouraged people to put their hopes in the intercessory powers of the candidate for holiness.<sup>77</sup> In the process leading to sanctification, even the sense of smell played a role which was performative and evidentiary. As has been mentioned, according to tradition, the saint's body was not subject to decay and putrefaction. Instead, it produced a gentle effluvium, having been embalmed with perfumes soon after death precisely because the person was considered a saint.<sup>78</sup> Therefore, a reputation for holiness – and

71 Gotor, *I beati del papa*, p. 283.

72 *Ibid.*, pp. 71–72. On the process for Borromeo's canonization, see Angelo Turchini, *La fabbrica di un santo. Il processo di canonizzazione di Carlo Borromeo e la Controriforma*, Casal Monferrato 1984.

73 Gotor, *I beati del papa*, pp. 264 and 150.

74 Ottavia Niccoli, *Vedere con gli occhi del cuore. Alle origini del potere delle immagini*, Roma–Bari 2011, pp. 22–66; Giovanni Ciappelli, *Memory, Family, and Self. Tuscan Family Books and Other European Egodocuments (14th–18th Century)*, Leiden 2014, pp. 82–108. On domestic devotion, see also Abigail Brundin/Deborah Howard/Mary Laven, *The Sacred Home in Renaissance Italy*, Oxford 2018.

75 Vauchez, *Sainthood*.

76 The Virgin of the Seven Sorrows surrounded by seven arrows. See Jacobson Schutte, Cecilia Ferrazzi, pp. 20–38 (*Testimony of Ferrazzi Preceding Her Autobiography*), p. 35.

77 On ex-votos, see Ittai Weinryb, *Votive Giving Across Cultures*, New York 2016.

78 Katharine Park, *The Criminal and the Sainly Body. Autopsy and Dissection in Renaissance Italy*, in: *Renaissance Quarterly*, 47 (1994) 1, pp. 1–33, here p. 1. On techniques of body preservation, see M. Bouver, *De l'incorruptibilité des corps saints*, in: J. Gélis/O. Redon (eds.), *Les miracles miroirs des corps*, Paris 1983, pp. 191–221. On autopsies and evidence, see Nancy G. Siriasi, *Medicine and the Italian University, 1250–1600*, Leiden 2001, pp. 356–380; Elisa Andretta, *Anatomie du Vénérable dans la Rome de la Contre-Réforme. Les autopsie d'Ignace de Loyola et de Philippe Neri*, in: Maria Pia Donato/Jill Kraye (eds.), *Conflicting Duties. Science, Medicine and Religion in Rome, 1550–1700*, London 2009, pp. 255–280.

partisan interests – led to treating the body with ointments and fragrant herbs, that is, doing something that was at the same time both an act of veneration and a performance, thereby contributing to the consolidation and spread of the prospective saint's reputation for holiness, which was irrefutably demonstrated through the sense of smell.<sup>79</sup> While the gentle fragrance of the body was effective in attesting to the sanctity of the deceased, a bad smell was supposed to warn against errors in assessment and against the deception of affectation, which became an autonomous crime in the 1580s.<sup>80</sup> Charged by the Holy See with supervising the notorious trial against the Jews of Trento, who were accused of the ritual murder of the young boy Simon, soon to be venerated as martyr, the apostolic commissioner Battista dei Giudici expressed his perplexity in a letter to Cardinal Nardini, mentioning among other things the bad smell emanating from the child's body (1475).<sup>81</sup> Similarly, among the elements opposed to the canonization of Francesca Vacchini, a witness mentioned the stench of her corpse when it was exhumed, although it had been covered with sweet-smelling herbs.<sup>82</sup> Unpleasant sensory experiences of the auditory type could occur at the sepulcher of the aspirant saint – when demons fled the bodies of those who thought they were possessed, leaving in the interval between the screams of the person who thought s/he was possessed, as happened for example at Borromeo's sepulcher.<sup>83</sup> The ability to drive out demons, which Jesus had transmitted directly to the apostles together with the thaumaturgical virtues (Mt 10: 1), was also an eminent proof of holiness.<sup>84</sup> In addition to the noise that was no doubt caused by a massive influx of the faithful to the tomb of the venerable one, deliberately produced sounds helped to underline the exceptional nature of the phenomenon that was underway and increased its reach by attracting a crowd to participate. One such example is the sound of the bells which were rung for two hours for Borromeo's burial.<sup>85</sup> Furthermore, litanies in the saint's name, as well as hagiographic images and stories in oral and written form, could circulate later and support his or her reputation for holiness. Control over sanctity plays a fundamental role in the grandiose program of disciplining and controlling the faith-

79 See for examples *Il primo processo per San Filippo Neri*, I, pp. 220, 257; II, p. 102–103; *I processi per Santa Francesca Romana*, pp. 104–105.

80 Jacobson Schutte, *Aspiring Saints*, p. 98. Adriano Prosperi, *Tribunali della coscienza. Inquisitori, confessori, missionari*, Torino 2009, pp. 431–464.

81 Tommaso Calì, *Simonino da Trento*, in: Adriano Prosperi/Vincenzo Lavenia (eds.), *Dizionario storico dell'Inquisizione*, Vol. 3, pp. 1433–4, p. 1434. For the case of Simonino, see Domenica Primerano/Domizio Cattoi/Lorenzo Liandru/Valentina Perini/Emanuele Curzel/Aldo Galli (ed.), *L'invenzione del colpevole. Il caso di Simonino da Trento dalla propaganda alla storia*, Trento 2020, also for the most recent bibliography.

82 Gotor, *I beati del papa*, p. 276.

83 *Ibid.*, p. 70.

84 Vincenzo Lavenia, *Esorcismo*, in: Adriano Prosperi/Vincenzo Lavenia, *Dizionario storico*, vol. 2, pp. 549–554, *The struggle between saint and devil attested to the »authority of a holy thaumaturge even after his death at his venerated tomb«*. See *ibid.* p. 549. See also Peter Brown, *The Cult of the Saints. Its Rise and Function in Latin Christianity*, Chicago 1981.

85 Gotor, *I beati del papa*, p. 75. We should remember that »before the invention of megaphones, bells were the loudest and most far-reaching means of communication«. See Philipp Hahn, *The Reformation of the Soundscape. Bell-Ringing in Early Modern Lutheran Germany*, in: *German History* 33 (2015) 4, pp. 525–545.

ful and their relationship with the supernatural that the Catholic Church tried to implement after the Council of Trent. This control becomes particularly vigilant after inquisitorial, conciliar, and pontifical law were welded together. At the end of the sixteenth century, indeed, after defeating the »heretical danger« on the Italian peninsula, the Roman inquisition dedicated its activity not so much to orthodoxy as, above all, to orthopraxis.<sup>86</sup> In 1588 Pope Sixtus V delegated all competence in the causes of canonization to the Congregation of Rites. In 1625 and 1634 Urban VIII forbade people to worship in any way whatsoever those who had died with a reputation for holiness until the Holy See pronounced on the matter, thus depriving the bishops of their authority and assuming control over all the various stages of ecclesiastical recognition. By placing the crime of superstition under the rubric of heresy and creating the category of »feigned sanctity«, which could be traced back to superstition itself since it constituted false worship, the inquisition ended up arrogating to itself control over new devotions (and the sensory experience and expression of these devotions), even if it did so incompletely and not without resistance. As Miguel Gotor pointed out, in a period in which we see the clericalization of medical care, the subordination of physicians to theologians, and the professionalization of the corps of physicians, a new model of sanctity develops, one in which the saint's thaumaturgical and prodigious aspects were subordinated to heroic virtue. Ecclesiastical authorities worked to transfer the thaumaturgical powers of the living body to the dead body and therefore to the relics whose authenticity had to be recognized by the Holy See. Even in life the ideal saint exercised his therapeutic powers by resorting not only to his hands, but also to a precious relic, like Filippo Neri, who jealously guarded the shoes of Pius V. Officially accepted healing phenomena moved from private homes to organized sanctuaries where the faithful who had obtained a grace could provide evidence of having received this grace with *ex-votos* authorized by Rome.<sup>87</sup> Despite Rome's disciplinary intervention, the heroic ideal of holiness and the social pressure promoting a thaumaturgical holiness continued to intertwine and contradict each other. In fact, tension and negotiation around disciplinary efforts and resistance to them characterized the two centuries following the Council of Trent.<sup>88</sup>

## The senses, proofs, and expertise

While the preceding paragraphs focused mainly on the performative value of the senses, in this section I will analyze their cognitive value, in accordance with a hierarchy that was consolidated in court. In terms of credibility, in the tribunal, according to canon law, there was a hierarchy of senses in the evaluation of proofs and testimonies that privileged sight: the only credible testimony was that of *de visu*, while *de audito*

86 Giovanni Romeo, *L'Inquisizione nell'età moderna*, Roma 2002, Prosperi, *Tribunali della coscienza*, and more broadly Andrea Del Col, *L'inquisizione in Italia dal XII al XXI secolo*, Milano 2006.

87 Gotor, *I beati del papa*, p. 104. For a discussion of the physician's subordination to theologians, see Elena Brambilla, *La fine dell'esorcismo: possessione, santità, isteria dall'età barocca all'illuminismo*, in: *Quaderni Storici*, 38, 112 (2003) 1, pp. 117–163. See also Prosperi, *Tribunali della coscienza*, pp. 467–475.

88 Niccoli, *La vita religiosa*, p. 184.

testimony was not credible on its own, not even in the presence of the fact (that is, if the witnesses themselves had heard directly, but had not seen, what happened). Witnesses preventively hidden in the attic or behind the bed in a room where the bride intended to induce the groom to express his consent to the marriage, for example, had to affirm that they had seen – assisted by ample cracks in the walls or between the door and the wall – rather than that they had heard the couple expressing nuptial consent.<sup>89</sup> Their testimony would otherwise be worthless, despite their familiarity with the couple and their ability to recognize them by voice alone.<sup>90</sup> In addition to the fact that during matrimonial and canonization processes every witness had to swear to speak the truth, in certain cases canon law includes the oath among »true or non-artificial« proofs. In matrimonial litigation, oaths could have a decisive value if they were taken by the party who had already provided a semi-full proof.<sup>91</sup> The oath was indeed the principal weapon against false testimony and an instrument that could influence the judges' decisions in a decisive manner; it was also revealed as an instrument capable of dissuading the opponent. By virtue of its connection to the sacred sphere, the oath was considered an »invocation of God as testimony of the truth« and it was taken in an intensely emotional ritual in which hearing and touching played fundamental roles, as did the sense of taste – at least imaginatively. I will briefly describe this rite, which highlights the emotional power of the act. It began with the following formula:

»To begin the case, the witness was warned to be very careful about the tenor of his or her depositions. If, after publication, the testimony turned out to be false, the same witness had wronged three people: in the first place, God (and the offense to God would cost him or her seven years of penitence, in the course of which he or she would have to fast every year for the forty days of Lent, eating only bread and water); in the second place, the judge (and the deception and lie to the judge would be punished at the discretion of the same judge according to the severity of the crime, the witness might be rendered infamous, might no longer be allowed to testify in other cases, might be denied the sacrament of the Eucharist until his or her death *exclusive*); and in the third place, he or she had wronged the innocent party whom he or she would be required to compensate and reimburse for all the damages, expenses, and difficulties which the party had incurred because of the fault of this witness, at the risk of ending in eternal flames and perpetual torments«.<sup>92</sup>

89 ASPV, CM, vol. 11, Zinevra filia Nicolai barbitonsoris vs Hieronimo Baldigara, 1509–1510. Donahue, Law, Marriage, and Society, p. 92 also mentions witnesses who attended a marriage through a crack. On the preeminence of *de visu* testimony, see also Susanne Lepsius, *Der Richter und die Zeugen*, Frankfurt 2003, p. 10, and by the same author, *Von Zweifeln zur Überzeugung. Der Zeugenbeweis im gelehrten Recht ausgehend von der Abhandlung des Bartolus von Sassoferrato*, Frankfurt 2003, pp. 87–89.

90 ASPV, CM, vol. 11, Leonarda filia Bernardini da Bergamo vs Agostino de Tarsia, 1510–1511; ASPV, AMP, reg. 22, Oliviero vs Margherita, 27 July 1461.

91 See Renzo Provinciali, *Giuramento decisorio*, in *Enciclopedia del diritto*, Vol. 19, Milano 1970, pp. 103–127, p. 107.

92 Cited in Seidel Menchi, *I processi matrimoniali come fonte storica*, pp. 78–79.



The oath was taken on the Gospels, to which doctrine attributed a quasi-magical power<sup>93</sup> because it considered them a tangible sign of the presence of the divine.<sup>94</sup> The reverential fear that touching the sacred book inspired was expressed in the reactions of two witnesses who interspersed their depositions with oaths sworn before God and the Virgin Mary and called down divine curses on themselves and their children if they were lying – but they refused to touch the Scriptures.<sup>95</sup> The judges knowingly availed themselves of the symbolic and suggestive power of touching the sacred text, becoming suspicious of those who asked to swear on other objects. So, when a »Greek« woman asked to swear on the image of the Virgin, the magistrate granted her request only after verifying that this effectively corresponded to Greek Orthodox traditions: He clearly intended to use a ritual that ensured effective symbolism and wanted to guard against the danger of validating any expedient that was meant to deprive the oath of its binding power. Similarly, the suggestive power of the ritual itself (rather than the act's juridical value) gave judges an incentive to impose the oath on minors, even though the norms of canon law required that the witness be at least fourteen in order to take a valid oath and did not consider children who made false statements under oath guilty of perjury.<sup>96</sup> This ritual sometimes had the effect of inducing witnesses and their parties to reveal legal constructs which they had devised. We find biased witnesses who, once under the bond of the oath, confessed to having been induced to depose falsely with the promise of considerable patrimonial advantages.<sup>97</sup> In processes for both canonization and feigned sanctity, and sometimes in matrimonial litigation, experts were summoned to give evidence because of their recognized authority, which was established through the exercise of specific sensory skills. Sight was an essential component of this expertise, which, however, was also based on touch and, in canonization processes, was based on the sense of smell as well.

Among the witnesses, marriage litigations sometimes included midwives, physicians, and surgeons to verify either the virginity of the woman or the impotence of the man. Cases that involved midwives were much more common, because the certification of a woman's virginity often assumed a central role in suits for alleged marriage, for annulment to take the veil, and for annulment because of male impotence, sometimes verified by proving the woman's virginity rather than the man's sexual inability. According to canon law, virginity was supposed to be verified by midwives of good repu-

93 See Carla Casagrande/Silvana Vecchio, *I peccati della lingua. Disciplina ed etica della parola nella cultura medievale*, Rome 1987, pp. 275 and 288, note 86.

94 Antonello Calore, »Tactis Evangelii« in: Bertelli/Centanni (ed.), *Il gesto e il rito*, pp. 53–99. On the Scriptures as relic, see Niccoli, *La vita religiosa*, p. 21. The acts that took place during a litigation in Zara instead attest to different uses, such as an oath sworn on the image of the Virgin or one of Christ crucified. ASPV, CM, vol. 11, f. 9. The oath on the image of the Virgin was decidedly unusual: in the moment of swearing, the Gospel, the blessed cross, the relics of the saints, and the altar became privileged as tangible signs of the presence of the divine. See Adriano Prosperi, *Fede, giuramento, inquisizione*, in: Paolo Prodi (ed.) *Glaube und Eid. Treueformeln, Glaubensbekenntnisse und Sozialdisziplinierung zwischen Mittelalter und Neuzeit*, München 1993, pp. 157–171, pp. 158–159.

95 ASPV, CM, vol. 14, Margherita da Traù vs Alessandro Aurio.

96 Cristellon, *Marriage, the Church, and its Judges*, p. 184.

97 »Especially a Venetian house«, or a field. See respectively ASPV, CM, vol. 14, Margherita da Traù vs Alexandro Aurio, 1514; and CM, vol. 15, Hieronima Compostella vs Francesco da Mosto, 1514. Both witnesses thus suborned had to confirm the existence of a marriage which they knew nothing about.

tation who, in the cases I have examined, were chosen by the judge or nominated by the parties concerned.<sup>98</sup> Physicians and surgeons were chosen as expert witnesses in the same way.<sup>99</sup> In the early modern period, anatomy treatises began to appear in increasing numbers. These treatises were written in the vernacular and presented observations which the authors made during or on the basis of dissections. They emphasized the visual nature of the anatomists' work, which was grounded in observation and deposited in written form. By asserting the authoritative nature of male visual mastery of the female body, they gave greater authority to observations made by dissection than to the mainly tactile knowledge which midwives acquired from years of experience. Despite this delegitimization of midwives, who, according to Peter Chamberlen, were no more fit for anatomy »than a blind man to judge of colors« (1665), and the fact that »some of the most important new tools developed for obstetrics were intended to enhance male practitioners' sight of women's bodies«, throughout the early modern period the institutional apparatus continued to delegate certain technical functions to the midwife, but these tasks were limited to the female genitals.<sup>100</sup> As for canonization processes, however, in 1678 Innocent XI prescribed the intervention of a doctor and a surgeon to examine miracles,<sup>101</sup> although physicians, surgeons, and (sometimes) midwives had also been present earlier.<sup>102</sup> While surgeons and midwives were inclined to believe and make disclosures about individual miraculous healings that they had personally witnessed, physicians instead expressed many different positions, ranging from an unequivocal belief in alleged supernatural healings to stances which gave rise to skepticism.<sup>103</sup>

## Conclusion

In the period I have examined here, the Church promoted a legal culture which gave writing a specific kind of authority, thereby helping to strengthen institutional awareness of its offices and courts and to guarantee its functioning. Writing made it possible

98 Three of them, according to Gulielmi Durandi *Speculum iudiciale*, Basel 1574, lib. I, partic. IV, de teste § II, n. 6, p. 335. Some examples in ASPV, AMP, reg. 6, Anna vs Giorgio, 1437; AMP, reg. 9, Daniele de Laude vs Lucia, 9 February 1442–10 March 1442; AMP, reg. 10, Martino vs Nicolosa, 4 February 1443–20 November 1443; AMP, reg. 13, Battista vs Isabetta Rizo, 20 November 1450–22 March 1451; AMP, reg. 20, Pietro Bono vs Caterina Crosta, 18 May 1459–5 December 1459; AMP, reg. 22, Antonio da Pergamo vs Isabetta da Pergamo; CM, vol. 4, Adriana Coppo vs Niccolò Civetani, 1476–1477.

99 ASPV, CM, vol. 16, Perina q. ser Varisci sanitarii vs Benedictum barbitonsorum, 1515.

100 Jennifer F. Kosmin, *Embodied Knowledge. Midwives and the Medicalization of Childbirth in Early Modern Italy*. PhD dissertation, Chapel Hill 2014, pp. 77–8, and p. 80 for quotations; Alessandro Pastore, *Il medico in tribunale: la perizia medica nella procedura penale d'antico regime (secoli XVI–XVIII)*, Bellinzona 1998. On midwives, see also Gianna Pomata, *Barbieri e comari*, in: *Cultura popolare nell'Emilia Romagna: Medicina, erbee magia*, Milano 1981, pp. 161–183; Mary Lindemann, *Medicine and Society in Early Modern Europe*, Cambridge 2010, pp. 268–272.

101 Gotor, *Chiesa e santità*.

102 Midwives may, for example, testify during trials for sanctity that the invocation of an alleged saint saved the life of a woman giving birth and/or a newborn child. See, for example, David Gentilcore, *Contesting Illness in Early Modern Naples: Miracolari, Physicians and the Congregation of Rites*, in: *Past and Present*, 148 (1995), pp. 117–148.

103 Ibid.

to preserve information on cultures and traditions that were expressed and perpetuated within a sensory community, according to a language that was concerned with the complexity of the senses in articulating social relationships. Precisely because of the legal value of sensory experiences, sensorial language was translated into writing during legal proceedings, but it ended up being subordinated to the medium of writing. Legal value came to be recognized only for written documentation, while a wide range of experiences and expressive modalities involving specific senses and the senses as a whole were marginalized and were put at risk of becoming inaccessible to historians.

In this article I have examined the value of sensory experience and sensory communication in the formation of marriages and in the construction of holiness. Although all the senses played a part in the performance of these acts, until the end of the sixteenth century touch played a particularly important role. As regards marriage, this role was denied to the sense of touch after the Council of Trent, when the norm that a parish priest be present at a wedding and the obligation to register the acts in writing definitively imposed the requirement that there must be a verbal expression of consent, which was perceptible through hearing and verifiable through sight. The verification of virginity, which sometimes was necessary to establish the validity of a marriage, was generally entrusted to midwives, whose expertise was based primarily on touch and only secondarily on sight. To whatever extent courts continued to resort to the authority of midwives, from the sixteenth century on, this authority was questioned, precisely because midwives relied on the sense of touch, while greater authority was given to physicians, whose experience was based mainly on observation and was set down in writing.

As for canonization processes, however, touch was heavily disciplined. This disciplining began in the 1580s–1600s, when the inquisition shifted its interest from orthodoxy to orthopraxis. Although touch continued to have a thaumaturgical and performative value, its object was not the living saint, but preferably the relic, which came to be venerated in special sanctuaries. In the period in which the Catholic Church launched an all-out attack in order to definitively assert its control over and mediation of all forms of devotion, and when it was committed to redefining its identity in a clerical and masculine way, touch was denied performative value and was disciplined. This was the same sense on which female authority was largely based and the same sense which, *par excellence*, did not allow any distance and any possibility of mediation in the perception of its object of knowledge. This process of hierarchization of the senses was not linear nor was it exclusively institutional, but instead was marked by everyday adjustments, negotiations, manipulations, and resistance.

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