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“The Leprosy of Lynch Law”

A Jesuit Exchange in *La Civiltà Cattolica*

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Abstract

In 1891-1892, the Roman Jesuit journal *La Civiltà Cattolica* published three texts addressing the morality of lynching in the United States – an exchange prompted by the lynching of eleven Italians/Italian Americans in New Orleans. While reflecting the traditional restriction of capital punishment to public authorities that characterizes Catholic social thought, the anonymous participants in the journal’s exchange also raise considerations about the rights and social standings of the victim. In addition, the exchange illustrates the perils of crisis exceptionalism as an excuse to ignore the rule of law.

Keywords: lynching, Society of Jesus, Sabetti, Molina, capital punishment

Introduction

In October of 1891, St. Francis Xavier College, at that time, the largest Jesuit college in New York City, opened a post-graduate evening course, offering students a class devoted to the major subjects in “Ethics, Natural Law and Sociology.” Advertised class topics included “conscience, liberty, toleration, marriage, divorce, education, labor, property, capital punishment, [and] ‘Lynch Law’” (Shelley: 470-71; *WL* 1891: 474). While the college’s American locale no doubt gave extra impetus to the inclusion of lynching among the other, more conventional topics of Catholic social thought, Lynch Law was already receiving moral scrutiny in some late nineteenth-century Jesuit publications, including international works.¹ In fact, when St. Francis Xavier College inaugurated its course on social ethics, the Roman Jesuit journal *La Civiltà Cattolica* was in the midst of what would become a three-part exchange on the morality of American lynching (*CC* 1891; Brandi; *CC* 1892). Building upon the traditional Roman Catholic restriction of capital punishment to public authorities, the anonymous participants in the exchange raised considerations concerning the rights and social status of the victims – considerations that would become critical for later analyses of mob violence. As a result, the exchange not only illuminates our understanding of the historical development of responses to lynching within Catholic social thought, but also highlights the danger of crisis exceptionalism² – a temptation no less dangerous for ethical reasoning about justice in the twenty-first century than it was in the nineteenth.

To set the *Civiltà Cattolica* exchange in its historical context, one must first examine its ethical antecedents, first in earlier Jesuit approaches to vigilante violence, and second in the textbooks of two nineteenth-century Jesuits who explicitly address the issue of lynching for students in the United States. Next we will briefly examine two developments that heightened international interest in lynching in the century’s last decades, before outlining the particular case behind the *Civiltà Cattolica* exchange: the 1891 lynching of eleven men of Sicilian ancestry in New Orleans. These considerations will introduce the analysis of the three different texts in the exchange. The paper’s final section will discuss the exchange’s historical significance and relevance for contemporary social ethics.

Earlier Jesuit Tradition

The insistence that private citizens, unlike public authorities, have no right to execute offenders is one of the most longstanding presuppositions of Catholic social thought. Articulated by Augustine and Aquinas, this idea became central to the later tradition, including Early Modern Jesuit analyses of crime and punishment.³ Jesuit theorists also echoed earlier

¹ For example, the English Jesuit philosopher Joseph Rickaby’s famous textbook, *Moral Philosophy or Ethics and Natural Law*, cites American lynching of murderers “who have unduly escaped the hands of the law” and Corsican vendettas as illustrations of the natural attraction of the *lex talionis*, even though Rickaby classifies the “taking of justice into private hands” as morally wrong (346-47).

² In other words, the tendency to exempt oneself or one’s community from accepted moral standards in a time of crisis, on the assumption that extraordinary dangers justify the abandonment of such standards.

³ See Gratian’s citation (in *decretum* II.xxiii.5.8) of Augustine’s letter to Publicola (1:932-33). Aquinas similarly cites *De Civitate Dei* in defense of the public/private distinction (II-II.64.3). For Early Modern Jesuit examples, see

tradition in insisting that due process must govern even public officials' responses to crime. In a passage cited by other Catholic moralists, the influential sixteenth century author Herman Busenbaum, S.J., argued that, except in extraordinary circumstances, princes and magistrates sin in condemning malefactors to death without a hearing, even if the authorities have secret knowledge of the offenders' guilt (170).⁴ While acknowledging that public administration of justice might fail in particular circumstances, the Jesuit cardinal Juan de Lugo argued that leaving some criminals unpunished was far better for the common good than ceding any license to private retribution (6:61).

The significance of public/private distinction regarding legitimate criminal sanctions becomes evident in a hypothetical case posed by the Luis de Molina, S.J. in the sixteenth century and taken up by Lugo in the seventeenth. Imagine persons living in an area where there is no political community. These individuals have no connections that would create a hierarchy among them (e.g., servant-master, commander-soldier). If one commits a crime against another, would it be legitimate for the victim to punish the perpetrator, since there is no public authority from whom to seek redress? Molina rejects this, precisely because doing so would legitimize vigilante justice under other circumstances. The right to defend oneself is distinct from the right to punish malefactors. If private individuals have the right to punish offenders in the absence of political authority, Molina maintains, they logically should be able to do so when public officials either cannot act (for example, because of insufficient evidence) or fail to act through negligence/depravity. If this were true, the assignment of punishing crime to political authorities would be nothing more than a human convention, and one which emerging political communities could eschew, if they preferred to leave vengeance to private individuals. Molina denies all these conclusions. Public authority to punish crime, he argues, is established by natural law, not human law (1:64). Commenting on Molina's case, Lugo adds that the individuals living in such hypothetical (and unlikely) circumstances might be able to avoid coming together in a political community, but once they do, they cannot alter the nature of a political community by leaving the punishment of crime to private individuals (6:62, 63). Such a political theology has no room, either practical or theoretical, for vigilante justice.

This Early Modern casuistry, which has obvious implications for lynching, is never mentioned in the *Civiltà Cattolica* exchange. However, one part of that exchange cites two nineteenth century Jesuits who addressed lynching explicitly, Louis Jouin and Aloysius Sabetti (Brandt: 276).

Jouin and Sabetti on Lynching

Louis Jouin (1818-1899) was born in Prussia, but renounced his citizenship after his conversion to Catholicism, so that he could study abroad for the priesthood. Expelled from Reggio as a foreign Jesuit during the revolutions of 1848, Jouin came to the United States and finished his studies at Fordham, where he later taught philosophy and mathematics. His most

Laymann: 2:206 (i.e., bk. 3, tract. 3, pt. 3, chap. 2); and Molina: 1:63, 64. Unless otherwise noted, all translations cited in the text are my own.

⁴ Busenbaum drew upon the arguments of the famous Dominican, Tommaso de Vio, popularly known as Cajetan (see Vio: 128). For a later Jesuit citation of Busenbaum's text, see Ballerini-Palmieri: 2:621. An influential non-Jesuit citation appears in Liguori: 1:629.

popular textbook, *Elementa Philosophiae Moralis*, was first published at Amiens in 1865 (WL 1900: 75-78).

Within that volume, Jouin's short treatment of lynching appears as a corollary to his analysis of public authority, specifically, such authority's right to punish criminals. As one might expect, Jouin draws a sharp line between public and private agents. The right to punish presupposes the right to direct citizens toward social ends. Because the second belongs to public authority, so does the first. Jouin concludes that these principles render illicit any summary punishments inflicted by private citizens – "a practice popularly known as *Lynch-Law* in our region" (296).⁵ Jouin thus explicitly rejects lynching as a usurpation of public power. His focus is not upon the victim, but upon the perpetrators' lack of legitimate authority.

Jouin cites no sources for his conclusions about lynching. By contrast, his younger fellow-Jesuit, Aloysius Sabetti (1839-1898), invoked both the U.S. Constitution and the first textbook of moral theology produced in the United States to ground his condemnation of the practice (1884: 212). Born in the Kingdom of Naples, Sabetti arrived in the United States in 1871. Within a year, he had become an instructor at the new Jesuit house of studies at Woodstock, where he would spend the rest of his career (1900: 208-13).

Sabetti's famous textbook, the *Compendium Theologiae Moralis*, was an adaptation of an adaptation. In 1850, Jean-Pierre Gury, S.J., published the first work of moral theology to appear after the Society's restoration. Other Jesuits, notably Antonio Ballerini, later expanded and updated Gury's textbook. Sabetti, who had studied briefly with Ballerini at the Roman College, created a shorter version of Ballerini's adaptation for American students (Gerardi: 413-15; Sabetti 1900: 212; Curran 2008: 7, 17). First publicly released in 1884, Sabetti's volume had thirteen editions in his lifetime, and many other editions after his death (Curran 2008: 17-22; Sabetti 1900: 226-27).

Sabetti raises the question of lynching under his treatment of the Fifth Commandment, and more specifically, within his discussion of capital punishment. He ends that analysis with a question: what should be said about the practice known as "Lynch law"? Sabetti responds that it is completely illicit, since private citizens lack the authority to punish criminals. For his American readers, Sabetti points out that lynching violates the Constitution's Fifth Amendment, which protects persons from loss of life, liberty, or property without due process. Sabetti also cites a theological authority for his assessment, by including two quotations from Francis Kendrick, the author of the first textbook of moral theology composed in the United States (Sabetti 1884: 212; Curran 2008: 13-17). Unlike Sabetti, however, Kendrick never mentions lynching explicitly, although he condemns the private usurpation of the power to punish, especially with execution, as a terrible crime (118-19, also citing the Fifth Amendment).

Indeed, the difference between Kendrick on the one hand and Jouin and Sabetti on the other illustrates one of the challenges in tracing the response to lynching in Catholic moral thought historically. The grounds for denouncing lynching had been part of Catholic thought for centuries, especially in terms of the tradition's limitation of punitive power to public officials. Thus, it is impossible to tell whether an author was thinking of lynching when he

⁵ "... quae vulgo in nostra regione *Lynch-Law* vocatur."

condemns vigilantism unless he mentions lynching explicitly. Jouin and Sabetti represent clear examples of Jesuit moral analysis of lynching prior to the *Civiltà Cattolica* exchange. Yet the emergence of that exchange reflects not only the Catholic moral tradition, but also the historical circumstances that drew international attention to lynching in the 1890s.

Historical Background

According to historian Sarah L. Silkey, the phrase “lynch law” made its first appearance in the British press in the 1830s (7). Joël Michel has documented French references to the American exercise of “la loi de Lynch” from the same decade (98-99). In the last decades of the nineteenth century, however, changing circumstances created new paradigms for interpreting “lynching” – a term that had often been applied to mob violence against abolitionists or to summary justice on the American frontier (Waldrep: 1-11; Silkey: 10-14, 18-26, 28-29, 38-44). The first development concerned the increasing prevalence of mob violence against African Americans after the end of Reconstruction (Cone: 4-10; Waldrep: 6-11). Here it is worth noting that Ida B. Wells’s first British speaking tour about lynching began in April of 1893, only two years after the beginning of the *Civiltà Cattolica* exchange (Silkey: 63). In September of 1894, the London Anti-Lynching Committee sent a committee to the United States on a fact-finding mission – an effort that a number of American governors denounced as foreign meddling (Silkey: 133-34). Clearly, the lynching of African Americans had become a matter of international concern.

A second aspect of lynching during this period that drew attention beyond America’s borders was the infliction of mob violence upon foreign nationals. Such tragedies evoked not only outrage, but also demands from the victims’ home governments. Diplomatic pressure, William Carrigan and Clive Webb point out, resulted in U.S. reparation payments for the families of some Chinese, Mexican, and Southern Italian victims (428).

It is worth noting that the racial prejudices of nineteenth century America subordinated all three of these groups. Barred from naturalization as non-white, and targeted first for vigilante exclusion and then for legal exclusion in the 1880s, Chinese immigrants were stereotyped as inferior heathens, whose culture offended America sensibilities and whose cheap labor threatened the livelihood of American workers (Lew-Williams: 1-9, 31-33, 238-40). In the American Southwest, common opinion regarded lower-class Mexicans as persons of mixed blood (Indian, black, and Spanish) in contrast to wealthy Mexicans, who were seen as pureblooded descendants of the conquistadors (Carrigan and Webb: 418).⁶ Similar prejudices disparaged Southern (as opposed to Northern) Italians, on the theory that proximity to North Africa had encouraged intermarriage and tainted the Sicilians’ ancestry (Luconi: 63-64; Webb: 49-50, 57). But unlike African Americans, some Chinese, Mexican, and Italian victims of mob violence had national governments prepared to demand justice on their behalf (Webb: 63-68; Carrigan and Webb: 427-428). The catalyst for the *Civiltà Cattolica* exchange was a breakdown in diplomatic relations between Italy and the United States in the aftermath of a horrific lynching of Sicilians/Sicilian Americans in New Orleans.

⁶ See Lew-Williams (242-43) for a comparison of the statuses of Chinese immigrants and Mexican Americans in the late nineteenth century.

The New Orleans Lynching

On March 13, 1891, a New Orleans jury either acquitted or failed to reach a verdict in the trials of nine defendants charged with complicity in the murder of the popular New Orleans police chief, David Hennessey, who had been fatally attacked by a group of assassins outside his front door in October of the previous year. Blaming the crime on Southern Italians, who at that time constituted more than ten percent of the city's population, the police initially arrested almost two hundred Italian suspects (Rimanelli 1992a: 118, 125, 133; Baiamonte: 117-18, 122-23). Eventually nineteen were indicted as perpetrators or accessories. When the prosecutions of the first group of defendants ended with acquittals and mistrials, the authorities returned all of them to the parish prison to await retrial or (in the case of those acquitted) a second trial on lesser charges (Rimanelli 1992a: 133, 137-38; Gambino: 71-77; Baiamonte: 131-34).

In response, members of a so-called Vigilance Committee, led by lawyer William S. Parkerson, a junior politician active in White Supremacist circles, decided to take matters into their own hands (Rimanelli 1992a: 138; Baiamonte: 125, 135). By the next morning, they had publicized a call for a mass meeting "to remedy the failure of justice in the Hennessey case," advising the public to "come prepared for action" (cited in Rimanelli 1992a: 139; see also Gambino: 155). In alarm, the Italian consul, Pasquale Corte, repeated his earlier requests for protection of the prisoners, but the sheriff and the Louisiana Attorney General informed him that they could do nothing without the mayor, who was nowhere to be found. Within the prison, the jailors barricaded the doors and allowed the Italians to hide themselves wherever they could. The mob quickly broke through one of the rear doors. Parkerson's group sent a carefully chosen lynching party into the prison, where they overpowered the guards and searched the structure for the prisoners they had chosen to kill. They shot, or hanged and shot, eleven men, six of whom had been acquitted, and five of whom had never been tried. Parkerson then dispersed the crowd, which carried him away on their shoulders in triumph. Later that afternoon, thousands of people filed through the prison for a firsthand look at the carnage (Gambino: 78-87; Rimanelli 1992a: 142-44; 1992b: 198; Silkey: 30-31). According to the *New York Times*, a Jesuit priest had been summoned to administer last rites to one of the victims (1891a).

The American, the Italian American, and the international press gave extensive coverage to the lynchings in New Orleans, while the aftermath of the killings quickly soured relations between Italy and the United States. Italy appealed to international law and to its 1871 treaty with the United States to demand punishment for the perpetrators and reparations for the victims' families. While the U.S. government eventually conceded the latter, it denied its responsibility for the former, claiming that the U.S. Constitution precluded federal interference in states' affairs (Rimanelli 1992b: 199, 210-13, 217, 218-21). In response to the stalemate, Italy recalled its ambassador on March 31, and the United States followed suit in June (Rimanelli 1992b: 221-22). In the view of historian Marco Rimanelli, neither government could risk backing down in the face of mounting domestic political outrage, and so each attempted to "force the other into conciliation" by means of a "public relations offensive," aimed at both local and international audiences (1992b: 223; Silkey: 31-32). The two countries resumed full relations only on April 12, 1892, a few months after President Harrison's public condemnation

of the lynching in his annual address to Congress, and immediately following the American payment of an indemnity to Italy for some of the victims' families (Rimanelli 1992b: 255; Gambino: 124-27).⁷

The year of interrupted diplomatic relations gave rise to a war scare (in the United States) and to an important discussion regarding the application of international law. Ironically, the fear that Italy (one of the major European naval powers during this period) might retaliate against U.S. ports led America to redevelop its navy, after virtually abandoning this branch of the armed forces after the Civil War. Union and Confederate partisans found common ground in rattling their sabers against the perceived Italian threat, even though Italy had neither the desire nor the financial resources to wage war on American soil (Rimanelli 1992b: 232-33; Silkey: 31-32, 35-36). At the same time, however, international jurists addressed the legal implications of the U.S. government's claims (Desjardins; González y Lanuza). If the rights of states within a State could legitimately trump the validity of federal treaty obligations, what did this imply for the application of international law, especially since many of the major powers were colonial empires? (Silkey: 34-35). Thus, it quickly became clear that the dispute had implications both for and beyond the United States and Italy.

Introduction to the Exchange

The three texts belonging to the *Civiltà Cattolica* exchange appeared in late May and early November of 1891, and September of 1892, thus overlapping the period of ruptured diplomatic relations between Italy and the United States (CC 1891; Brandi; CC 1892). Although the journal published its articles without naming the writers during this period, the archival research of John Ciani, S.J., has identified the author of the second text, and provided some background on the first and third (145, 141-42).

The first and third entries are part of a journal section devoted to current events of interest both in Italy and around the world. "Based on reports from correspondents in the field," reports Ciani, "the geographically organized chronicle [section] was edited and organized by a member of the journal's staff" (141). At this time, Thomas Hughes, S.J. of the Missouri Province was responsible for submitting the material from the United States (141-42).⁸ However, as published, these chronicle sections report on events taking place in different parts of the *Uniti Stati*, combined at some point into a single narrative. It is conceivable that Hughes could have written these chronicles in their entirety, but also that he could have redacted or transmitted the writings of others, since they underwent their final editing in Rome. For that reason, I will refer to these texts simply as "Chronicle A" and "Chronicle B" (CC 1891, CC 1892).

The second entry, by contrast, is an analytical article entitled "La Legge di Lynch negli Stati Uniti." Ciani has identified its author as Salvatore Brandi, S.J. (1852-1915), a Neapolitan

⁷ One of the many points of contention concerned which of the lynching victims were Italian citizens (see *New York Times* 1891b; Gambino: 93-94; Silkey: 31-32).

⁸ Hughes (1849-1939) was born in Liverpool and entered the Society in England, but came to America while he was still a novice to prepare for the Native American missions. Instead, his superiors directed him into the academy. He eventually published the four-volume *History of the Society of Jesus in North America* (see Curran 1985: 241).

Jesuit who had come to Woodstock to finish his studies in theology in 1875, and remained there as a professor until he was recalled to Rome to serve as a writer for *La Civiltà Cattolica* (145-46, 1, 2, 4, 109, 112). Thus, he and Sabetti were colleagues at Woodstock for some years. Ciani identifies “La Legge di Lynch . . .” as Brandi’s first complete article for the Roman journal, of which he would eventually become director (145, 296). As a refugee from Naples who had become an American citizen, Brandi brought a transnational perspective to the analysis of Lynch Law.⁹ His text, like the two chronicle accounts, attempts to explain American lynching for an Italian audience. It is worth noting, however, that *La Civiltà Cattolica* was also popular among Italian Jesuits working in the United States (McKevitt: 236).

Chronicle A

Reporting in May of 1891 about events of interest from the United States, Chronicle A devotes 80 percent of its text to the “tragedy [*tragedia*]” in New Orleans. Noting the extensive attention accorded to the international consequences of this event, its author proposes instead to consider its moral and social implications for the nature and governance of society. The lynching in New Orleans, he suggests, was in many respects a unique case, illustrating the tension between theory and practice regarding the social order (CC 1891: 751, 752, 756).

Before turning to the events in New Orleans, the Jesuit reporter begins by describing a typical lynching for his audience. Most lynchings occur in the South, in retaliation for flagrant crimes, and the victims are usually black. Instead of waiting for the judicial system, the lynchers retaliate, without bothering to disguise themselves or to wait for cover of darkness. Seizing their victims, whether they are free or in jail, the lynchers either hang them and riddle their bodies with bullets, or shoot them first and hang them afterwards, from a tree or a lamppost. The author does not claim that this type of lynching is justifiable, despite his reference to lynching as a response to flagrant crimes (CC 1891: 751). The rhetorical function of this description is to demonstrate that what happened in New Orleans was no ordinary lynching.

To explain why a people known for their respect for law would perpetrate such illegalities, Chronicle A posits three different scenarios. Particular lynchings can be the result of sudden impulses, secret conspiracies, or decisions adopted with the sanction, and under the responsibility of a “Vigilance Committee [*Comitato di Vigilanza*]” (CC 1891: 751-52). Such a group, the author explains later in the text, includes the most reputable citizens of a community. It is established during a time of anarchy or disorder, when it is impossible to exercise any other form of justice (CC 1891: 755). Noting the recourse to such committees in California, “thirty or forty years ago,” when they functioned in the absence of regular systems of justice, the Jesuit author admits that the abuses associated with these committees made them dreadful and dangerous remedies for crime (CC 1891: 755).¹⁰ Nonetheless, the central contention of his report is to explain, and to offer at least tentative justification for the New

⁹ On the possible reasons for Brandi’s change in citizenship, see Ciani: 58 n. 21. On the various expulsions of Jesuits from the Italian peninsula after the Society’s restoration, see McKevitt: 14-36. In 1891, when Brandi took up his new position in Rome, the Jesuit curia was still in Fiesole, where it had been exiled since 1873, and would remain until 1895 (McKevitt: 33).

¹⁰ “. . . trenta o quaranta anni or sono . . .”

Orleans lynchings, as the exercise of justice coordinated by a Vigilance Committee following the breakdown of normal judicial remedies.

For its Italian audience, Chronicle A claims the Sicilian origin of the victims is not morally relevant. The United States has seen a number of groups (Irish, anarchist, and even Polish) that resemble the Mafia in their reliance upon violence as a means to their ends. In most cases, they have been repressed by ordinary legal means. In fact, Americans, like the British, are reluctant to use deadly force, except during just war. The author ascribes the current prevalence of vigilantism in America to the arrival of “exotic homicidal sects” that represent a “disgrace for European immigration” (CC 1891: 756).¹¹

This argument bears a striking resemblance to an analysis of the events in New Orleans by Massachusetts politician Henry Cabot Lodge, published in *The North American Review* in May of 1891 – the same month in which the Chronicle A appeared. Lodge traces the underlying cause of New Orleans’ “lawless act” to the “utter carelessness” of U.S. immigration policy. Repressive European governments have spawned organizations that regard violence as legitimate, and unrestricted immigration has transplanted them to the United States. Lodge’s illustrative examples are the Molly Maguires, anarchists, Mafiosi, and even a similar Polish group – the same list employed in Chronicle A. Ascribing such organizations to immigrants from several countries allows Chronicle A to insist that the New Orleans lynchings were not prompted by anti-Sicilian prejudice, just as Lodge associates the American instantiations of such violent groups with “the quality of certain classes of immigrants of all races” rather than with “race peculiarities” (602, 604, 605).

Chronicle A prefaces its moral analysis of lynching with a detailed account of events of March 13 and 14. While not completely one-sided, it emphasizes aspects of these events that the author believes set the New Orleans lynchings apart, such as the rejection of calls for vigilante justice immediately after Hennessey’s death, the peaceful dispersal of the crowd after the lynchings and the return of the stolen guns to the armory, and the resolutions from various New Orleans Boards assessing the killings as regrettable, but justified (CC 1891: 752-54).¹²

In light of these circumstances, Chronicle A maintains that the “only true question” confronting a moralist is whether this was the act of a Vigilance Committee acting with the support of popular sovereignty or the act of a lawless mob (CC 1891: 755).¹³ There is, the author acknowledges, a strong objection to first answer: New Orleans was neither on the frontier nor located in a country in a state of governmental collapse; thus, the city possessed ordinary mechanisms for responding to crime. According to its citizens, however, the perversion of justice in the Hennessey case meant that there would be no security of law, unless the people’s sovereign power corrected the original false judgment. In fact, universal public sentiment approved the lynching – in itself an illegal act – as a “necessary corrective [*un necessario correttivo*]” for justice badly administered (CC 1891: 755). The author doubts that one

¹¹ “. . . esotiche sette omicide, le quali sono un’onta per l’immigrazione europea.”

¹² In fairness, the author also includes details that are less supportive of his theory, such as the mayor’s absence, and the mistake in identity that led the lynchers to shoot (unsuccessfully) at a prisoner that was not one of their targets (CC 1891: 753-54).

¹³ “. . . la vera e sola questione . . .”

can offer any other moral defense of the New Orleans lynchings, which he believes illustrate the difference between the theory and the practical difficulties of the social order (CC 1891: 756).

Chronicle A detects the same ethical problems and “mitigations [*mitigazioni*]” in the report of the New Orleans Grand Jury, which the author quotes at length in the post-script to his analysis (CC 1891: 759-61 at 761). His cited passages from the report include these claims: Mafia power represented a form of “leprosy [*lebbra*]” in New Orleans that defied judicial remedy; as a result, the people were duty bound to exercise their sovereignty by repressing it directly (CC 1891: 759-60). Despite some serious criticism in the daily press, the author asserts, public opinion on the whole has reacted favorably to the Grand Jury’s conclusions (CC 1891: 761).

It seems fair to characterize the author of Chronicle A as a commentator anxious to offer his controversial conclusion as a possibility rather than as a certainty. He asks whether the New Orleans lynchings were justified, rather than asserting that they were justified, despite his apparent sympathy for the excuses of the perpetrators. He admits that he can imagine no possible justification other than the claim that this was the act of popular sovereignty carried out by a Vigilance Committee under emergency circumstances. However, he does not state unequivocally that this claim represents a sufficient justification for the vigilantism in New Orleans. Finally, his references to a possible distinction between theory and practice in the social order indicate that Catholic social theory does not justify lynching – a conclusion he leaves unchallenged regarding to the vast majority of cases. One might summarize the argument in this form: does New Orleans represent a rare exception to the general prohibition of lynching?

Brandi’s Response

“La Legge di Lynch negli Uniti Stati,” mentions Chronicle A directly only once, with the remark that the journal’s American correspondent has already reported on the “painful facts [*i dolorosa fatti*]” of the events in New Orleans for its readers (Brandi: 266). Despite this reticence, Brandi attacks the arguments from the earlier article, rejecting not only its tentative conclusion, but also the central premise upon which it relies – that there might be an ethical distinction between the two forms of lynching.¹⁴

Though Brandi devotes little space to the details of the New Orleans lynching, his account emphasizes that none of the victims had been convicted of any crime. Instead, he considers several possible theories regarding the historical roots of lynching, admitting that its genesis is debatable. But whatever the truth about the existence of a Judge Lynch, Brandi admits, there is no doubt that lynching has taken root in the United States, especially in the South (266-68).

Drawing upon the *American Cyclopaedia*, Brandi identifies two forms of lynching in response to crime. One arises from popular anger, and the second, from the decision of a Vigilance Committee (267). This, of course, parallels the categories employed in Chronicle A. However, Brandi makes no ethical distinction between them. In a well-ordered civil society, the practice

¹⁴ Brandi was still in the United States at the time of the lynchings, since he left America for Rome in August of 1891 (Ciani: 112).

is a grave crime, and can never be used as a “necessary corrective for the bad administration of justice.” The phrase *necessario correttivo della mala amministrazione della giustizia* is the precise phrase employed in the earlier text (268; CC 1891: 755-56).

What makes lynching a criminal act? Here, Brandi draws upon the general definition of crime offered by the influent Italian Jesuit, Luigi Taparelli. A crime is a fault that damages persons’ strict rights, that is, rights for which a violation can be externally known and precisely measured (268). Applying this definition, Brandi argues that *linciamento* (“lynching,” see Fanfani and Arlía: 37, 315) violates the accused persons’ right of self-defense, as well as their rights to be judged by legitimate authority, and their right not to be punished prior to a juridical determination of guilt (268-69). His approach thus focuses upon the rights of the victim (rather than upon the perpetrators’ lack of right). Such rights, Brandi maintains, are guaranteed by Article 5 of the U.S. Constitution, by the Treaty of 1871 between Italy and the United States, and finally by the *ius gentium* (law of nations). The victims in New Orleans were denied all these rights, and some of them never even had the opportunity to assert their innocence in a court of law (268-71).

Proffering a different ethical attack against lynching, Brandi points to its social consequences. Social disorder destroys society. One can hardly imagine any worse social disorder, he argues, than substituting passion and prejudice for the standards of rectitude demanded of legitimate judges (271). Brandi also rejects the claim that in a democracy, popular sovereignty allows the people to suspend the law and exercise power directly – a claim frequently invoked in defense of the vigilante actions in New Orleans, and mentioned in Chronicle A (272; cf. CC 1891: 755; Silkey: 32-33). Leo XIII, Brandi points out, recently distinguished the right to choose a ruler from the ability to confer political authority.¹⁵ In the United States, the people are sovereign, but they do not exercise power directly; nor do they have the right to suspend laws and execute defendants. A democracy that flatters popular passions, like those operative in New Orleans, is a false democracy, or more accurately, an abominable tyranny (272-73).

Unlike the author of Chronicle A, Brandi sees no ethical significance in the favorable public reaction to the lynchings in New Orleans. Even if the people in New Orleans indeed supported the lynchings unanimously, this would reflect only the shameful unanimity of a badly governed city, not the consensus of the American people as a whole (273-74). Brandi insists that American popular opinion rejects lynching. To counter a defense of the lynchings expressed by a former U.S. minister to London and cited in various European journals, Brandi mentions condemnations from well-known American politicians and American newspapers (274-75; cf. Gambino: 96).¹⁶

Brandi next moves to American Catholic statements on lynching, again to demonstrate their opposition to the practice. However, his most authoritative source – a citation from James Cardinal Gibbons, the Archbishop of Baltimore – is less straightforward on the question of lynching than Brandi’s text suggests (275-76). Gibbons ends his 1889 popular work, *Our*

¹⁵ This is a reference to the encyclical *Diuturnum*, issued on June 29, 1881 (see sections 6-8).

¹⁶ A very extensive listing and review of contemporary newspaper references appears in Caitlin Kennedy’s Honors College thesis from the University of Mississippi (52-72).

Christian Heritage, with a discussion of five evils facing the United States. The last is “the unreasonable delay in carrying into effect the sentences of our criminal courts, and the numerous subterfuges by which criminals evade the execution of the law” (1889: 485; cited in translation by Brandi at 275-76). These include insanity pleas, appeals, and other legal remedies that result in the delay or the avoidance of capital punishment. Gibbons’ only reference to lynching is his claim that the success of criminals in avoiding execution has “given plausible grounds for the application of lynch-law” (1889: 508).¹⁷ As we shall see, this argument reappears in Chronicle B.

Brandi is on somewhat firmer ground when he appeals to the texts used for ethical instruction in American Catholic schools and institutions of higher learning. Listing five textbook authors (Kenrick, Konings, Sabetti, Jouin, and Russo), Brandi claims that they rank lynching among the actions that are illicit by their very nature. Since Kenrick, Konings, and Russo do not mention lynching explicitly, one must assume that Brandi is extrapolating from their insistence that only civic leaders have the power to execute criminals (Kenrick: 118-19; Konings: 200-201; Russo: 253). In fact, Brandi relies most directly on his former colleague Sabetti, whose short discussion of lynching he quotes almost in its entirety (276).

Brandi concludes by expressing his confidence that Americans will develop effective means to repress the evil of lynching. His last rhetorical flourish responds directly to the claims of the New Orleans Grand Jury (as cited in Chronicle A). Where the Grand Jury spoke of the leprosy of the mafia, Brandi claims that America has contracted the “leprosy [*lebbra*]” of lynching. Citing the preamble to the Constitution, Brandi argues that every American citizen has a duty to purify the body politic of this horrible disease (277).

In his analysis of lynching, Brandi’s approach both reflects and develops the tradition. His rejection of the popular sovereignty argument has deep roots in Catholic social thought regarding the origins of political authority, and parallels Molina and Lugo’s approach to punishment in the absence of political community. Moreover, by describing lynching as an act illicit in itself, Brandi makes the question in “Chronicle A” regarding possible exceptions to the prohibition of lynching a non-issue. By definition, an act illicit in itself can never be justified. The most striking aspect of Brandi’s argument, however, is its focus upon lynching as a violation of the victim’s fundamental rights, rather than upon the perpetrators’ lack of standing to impose punishment.

Chronicle B

Chronicle B’s contribution makes no reference to the two earlier texts, or to the lynchings in New Orleans. This text is interesting primarily because it illustrates how the parameters of the *Civiltà Cattolica* exchange on lynching had shifted since Chronicle A had originally appeared in the journal.

¹⁷ Note the parallel to Rickaby’s argument in note 1. In 1905, Gibbons would publish a direct attack upon lynching in *The North American Review*. While that text’s condemnation of lynching is far more explicit and developed, it treats the New Orleans lynchings (inaccurately dating them to 1900) as an illustration of the “incentive and temptation” to vigilantism associated with a “miscarriage of justice,” i.e., the failure to convict the defendants for what Gibbons assumes was a Mafia crime (1905: 506).

In a report on events of interest in the United States, the author of Chronicle B addresses a proposed constitutional amendment precluding state governments from distributing any tax revenues to institutions controlled by religious bodies. Suspecting an anti-Catholic bias behind this proposal, the author is particularly upset that public opinion has led even some Catholics astray regarding the issue and argues that the poor moral education associated with public schools has created a distortion of civic conscience. As evidence of this, he points to the prevalence in the United States of three practices: divorce, murder, and lynching. In fact, Chronicle B explains lynching as the result of this country's failure to deal adequately with murder (CC 1892: 634-37).

Chronicle B begins by comparing statistics on murder's geographic prevalence. According to Italy's prime minister, the author points out, that nation presently holds the dubious honor of producing, among the European countries, the greatest number of murders. However, recent U.S. statistics for murder are much higher, with over 10,000 known murders in 1891 alone. The author of Chronicle B seems even more disturbed, however, by the response to these crimes: only 552 criminals paid with their lives, and 332 of them were lynched. If Europeans are amazed at the prevalence of lynching, he argues, these statistics can make vigilantism intelligible (CC 1892: 636-37).

Chronicle B does not try to minimize the evils of lynching. One, two, or even three lynchings occur in the U.S. each day, the author claims, and the perpetrators will face no legal consequences unless they kill a sheriff or other law enforcement officer in the process of capturing their intended victim. In one case, they burn their target at high noon; in another, they seize a black woman who poisoned half-a-dozen white people the day before and hang her on Sunday morning, while the citizens are going to church (see Feimster: 165-67). The author ascribes these horrors to flaws in the justice system and to public indifference, essentially repeating Cardinal Gibbons' diagnosis. Proper education, Chronicle B suggests, can form appropriate civic character (CC 1892: 637). Although he does not close the loop explicitly, this brings him back to his original argument about the proposed constitutional amendment's threat to parochial schools.

If the author of Chronicle A also composed Chronicle B, he seems to have taken Brandi's correction to heart regarding the absolute prohibition of lynching.¹⁸ His coupling of lynching with divorce and murder, like his shocking illustrations of what the practice entails (i.e., hanging a woman on Sunday morning) indicate moral condemnation. However, it is interesting that the journal's editors added a footnote to his text, reminding its readers that the volume had recently analyzed "the illegality and immorality of the so-called Lynch law in the

¹⁸ There are some similarities in argumentation between Chronicle A and Chronicle B. Both provide concrete illustrations of what lynching ordinarily entails (cf. CC 1891: 751; and CC 1892: 637). Chronicle B's explanation of lynching as a response to the justice system's inadequacy parallels – to a lesser degree – Chronicle A's claim that the failure of the New Orleans court was the catalyst for the violence there. Finally, each text has a connection to the state of New York. The journal identifies Chronicle A as coming from New York (CC 1891: 751). In its discussion of divorce, Chronicle B cites statistics from New York State – and only New York State – in addition to the statistics it offers regarding the country as a whole (CC 1892: 636). All these factors support the possibility that the same Jesuit composed both chronicle accounts.

United States,” (i.e., in Brandi’s article) (CC 1892: 637).¹⁹ Perhaps the editors were anxious to make it clear that Chronicle B’s explanation of lynching should not be interpreted as an argument for excusing it.

Historical Significance and Contemporary Relevance

The *Civiltà Cattolica* exchange was hardly a pivotal event, either in the history of theological responses to lynching in the United States, or in the history of Catholic moral theology. Yet despite its limitations, it illuminates them both. For the history of theological responses to lynching, the exchange reveals Jesuit interest in and commentary on the topic in the late nineteenth century. Awareness of the exchange thus complements our understanding of the better-known Liberal Protestant campaigns against lynching during the same period.

In terms of the history of moral theology, the *Civiltà Cattolica* exchange illustrates a frequent pattern of development in the specification of ethical norms. Under this pattern, changing historical circumstances raise questions about the scope or application of a longstanding rule. Someone proposes a case that tests those boundaries. Responding to that case prompts ethicists to clarify, reinterpret, or even reject the original norm. A practical challenge (the case) thus raises hidden questions about the assumptions underlying it.

As ethical test cases go, Chronicle A’s tentative argument did not pose a significant challenge to the longstanding prohibition of vigilante responses to crime, and Brandi was able to refute it in short order. The case, however, brought to the surface latent questions about what makes lynching wrong, and whether the reasoning behind the traditional norm was adequate to address this practice. Brandi’s emphasis upon the rights of the victim moves beyond the traditional focus upon the perpetrator’s usurpation of state authority. In doing so, it anticipates the emphasis upon human dignity characteristic of modern Catholic social thought. Ironically, Chronicle A’s attempt to distinguish ordinary lynchings from the events in New Orleans also anticipates an issue critical for contemporary analyzes of vigilante violence: the significance of the victim’s identity and lack of social standing.²⁰ As Chronicle B illustrates, the evil of lynching is not just the death of the victim, but also the impunity that the killers enjoy, and can count on enjoying, as a consequence of public approval of or indifference to their actions. Social power is even more integral to lynching than a mob’s physical power (see Cone: 6, 10-11, 76-77; Waldrep: xv). The *Civiltà Cattolica* exchange thus represents a step toward the diagnosis of lynching as an act of oppression rather than as an act of usurpation.

While the *Civiltà Cattolica* exchange sheds light on the history of responses to lynching within Catholic social thought, the significance of the exchange is not simply historical. In fact, this ethical discussion from the past serves as a salutary warning today, precisely because the same blind spots that distorted perceptions of lynching are still operative. More specifically, the *Civiltà Cattolica* exchange illuminates the temptations and consequences of crisis exceptionalism.

¹⁹ “Della illegalità e immoralità della cosiddetta legge di Lynch negli Stati Uniti . . .”

²⁰ Chronicle A, of course, does not extend this recognition to the New Orleans victims.

In the nineteenth century, apologists for lynching frequently invoked American exceptionalism to justify the practice. First, this was the exceptionalism of the frontier, with the claim that American institutions had not yet evolved sufficiently to make vigilantism obsolete. Later, claims of exceptionalism appealed to crisis rather than immaturity. Lynching should be accepted, or at least tolerated, its defenders argued, because normal mechanisms of justice were impotent in the face of some crisis – in New Orleans, the crisis of invading “homicidal sects” supposedly concomitant with immigration. Crisis exceptionalism became an excuse to abandon the rule of law, while blaming the victims for bringing terror on themselves, and casting the perpetrators as the aggrieved and even oppressed parties. In this way, it provided a cover story for the indefensible. When one surveys contemporary American society, corresponding examples are not difficult to identify. Brandi’s warning that American citizens should recognize the “leprosy” embodied in our treatment of the feared and denigrated outsider is thus a poignant legacy for today’s Christian social thought.

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