

# Religion and the Emergence of the Rule of Law<sup>†</sup>

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## 1. The Origins of Economic Growth

From our comfortable and relatively wealthy perches in the 21st Century, many of us in developed nations ask why so many nations are poor? Surrounded by wealth, we wonder how widespread extreme poverty can persist in so many places. We view the poor countries as the exceptional cases, and our own wealthier countries as the norm. But this perspective is rooted in our own circumstances and ignores the grand sweep of history. In the many millennia since *homo sapiens* first emerged, humankind's basic conditions have been characterized by subsistence-level living with short average life-spans. Only in the last few centuries has humanity begun to experience the widespread accumulation of wealth typical in a modern developed economy, and with this economic prosperity has come improvement in quality of life in many measurable ways.

So, the interesting question to ask is not *why are some countries poor?*, because poverty has been the norm for humanity for most of its existence. The interesting question is *why did any country ever get rich?* Economists and economic historians have proposed a multifaceted array of answers to this question. Any valid answer to *why did any country get rich?* must at least begin with the nations of Western Europe, because that is where the modern wealth-generating economy first got its start.

In this chapter, we examine the role played by the Medieval Roman Catholic Church in creating the institutions that generated the rule of law in Western Europe, planting the seeds that led to modern economic growth. We consider "rule of law" to mean that a body of rules exists that is defined and enforced well enough to constrain arbitrary governmental actions, and that government itself has well-defined and enforced civil and criminal rules to govern social interactions. The chapter (which is a preliminary sketch of a long-term research project) begins by observing that the Roman Catholic Church was one of the primary producers of wealth in the medieval period (from 1000 to 1500 CE). The Church's wealth flowed in substantial part from monastic estates, whose heightened productivity likely resulted from cooperative behavior encouraged by the shared beliefs and social norms within the monastery. In the tenth century CE, secular authorities appropriated a large amount of monastic land and other Church properties. For this and other reasons, the Church embarked on a reform campaign in the latter part of the 11th century that asserted the power of the Pope over both the Church and the secular rulers.

The papal reform of the 11th century led to the emergence of ecclesiastical courts as the creators and interpreters of the Church's own canon law, and ecclesiastical courts were able to protect the Church and its holdings from appropriation by political rulers. Many canon law doctrines that shielded the Church from an arbitrary state ultimately made their way into modern Western law, providing protection of property and contract rights to individuals *vis-à-vis* the state in ways still felt today. In contrast to Western Europe, the religious authorities in other parts of the world lacked the power and authority of the Medieval Church relative to secular rulers, so that the

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various religious organizations of Eastern Europe, the Middle East, China, and India were not able to provide the same jurisprudential functions as the Medieval Church did.

We focus on the time period from 1000 CE to 1500 CE, because these are the years when Western Europe first began its ascendance to economic dominance.<sup>1</sup> In 1000 CE, across Europe and Asia, per capita economic development was basically equal in all regions, with most regions existing at a subsistence level. Five hundred years later, Western Europe had moved ahead of the rest of Eurasia. David Landes (1999, 29) described Europe's ascent:

*Europe was lucky [to have favorable geographical features], but luck is only a beginning. Anyone who looked at the world, say a thousand years ago, would never have predicted great things for this protrusion at the western end of the Eurasian landmass that we call the continent of Europe. In terms popular among today's new economic historians, the probability at that point of European dominance was somewhere around zero. Five hundred years later, it was getting close to one.*

Using modern geographic definitions, Angus Maddison (2001) estimated real GDP per capita in each of the major regions of Europe and Asia for the years 0, 1000, and 1500. These estimates are set forth in Table 1. Little change occurred in GDP per capita over the first millennium, and the income levels of most regions of Eurasia were basically even in 1000. Landes (1999, 342) even said that in 1000 China was developmentally "well ahead" of any other region—"and certainly of Europe." Timur Kuran (2004a, 124) made a similar statement about the Middle East: the Islamic world was ahead of the West in the tenth century and had clearly fallen behind by no later than the seventeenth century.

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<sup>1</sup> A starting point of 1000 CE puts us at a time when cross-regional differences along nonreligious dimensions (such as preexisting capital, accumulated technological innovations, and so forth) would be relatively smaller than during a later period—and likely were not in favor of Western Europe. The year 1500 makes a sensible endpoint for two additional reasons. Because 1500 predates the Protestant Reformation, using it as an endpoint eliminates problems of disentangling the effects of the Protestant Reformation (as asserted by Max Weber, among others) from the larger effects of Western Christianity. (For discussion of the role of Protestantism in the emergence of modern economic growth, including a brief discussion of the rule of law, see Robert Nelson's chapter in this volume.) In addition, some scholars have argued that Western Europe's economic ascendance is attributable to its exploitation of the colonial system (e.g., Pomeranz 2000). Using an endpoint of 1500 moots such arguments because it predates the colonial period.

**Table 1. GDP Per Capita in Europe and Asia, 0-1500 CE (1990 International Dollars)**

<b>Region</b>	<b>GDP Per Capita</b>			<b>Average Growth Rate</b>	
	<b>0</b>	<b>1000</b>	<b>1500</b>	<b>0-1000</b>	<b>1000-1500</b>
Western Europe	450	400	774	-0.01	0.13
Eastern Europe	400	400	462	0.00	0.03
Former USSR	400	400	500	0.00	0.04
Japan	400	425	500	0.01	0.03
China	450	450	600	0.00	0.06
India	450	450	550	0.00	0.04
Other Asia	450	450	565	0.00	0.05
Entire World	444	435	565	0.00	0.05

Source: Maddison (2001), Tables B-21, B-22

Between 1000 and 1500, Western Europe caught up to and then passed the rest of Eurasia. As shown in Table 1, Maddison estimated that the average annual growth rate in real GDP per capita in Western Europe was 0.13 percent. Although this long-run growth rate is paltry by modern standards, it nevertheless is more than double the growth rate of China, the next-fastest-growing region. Pounds (1974, 97–98) reported that trade between Western Europe and the eastern end of the Mediterranean changed in character between 1000 and 1500. At the beginning, Western Europe was an importer that paid for its purchases in bullion; by the end, Western Europe was increasingly exporting processed and manufactured goods to the Middle East while importing raw materials. As a result, in 1500, Western Europe's real GDP per capita was 29 percent higher than in China, 37 to 41 percent higher than in India or the rest of Asia, 55 percent higher than in Japan and the region of the (now) former USSR, and 68 percent higher than in Eastern Europe.

There are many reasons for this early divergence in relative levels of development across regions. Geographical advantages mattered: Europe had a more temperate climate, rainfall patterns more amenable to cultivation, and fewer parasites than existed in tropical regions. Europe had big, strong animals such as horses and oxen that proved to be a key energy source for agriculture and for transportation. Also, Europe's array of natural barriers, like rivers and mountains, made for smaller natural political units, which meant there were more autonomous polities with their own rulers. More competition among rulers meant that there was less of a chance to be arbitrary in governance, because citizens could vote with their feet by moving to a better-run neighboring principality (Jones 2003, 105–08, 226; see also Diamond 1999).

Differences in weather variability may also have played a role in Europe's ascent. Jones (2003, Chapter 2) argued that India and China were subject to more severe environmental uncertainty (such as floods, droughts, storms, etc.) than Western Europe, making capital more prone to being destroyed in the Asian regions. Thus, India and China faced a relatively higher disincentive to invest in capital, which deterred growth in income per capita. Jones also argued that the higher risk of natural disasters placed a premium on family size in Asia relative to Europe, because a larger family would increase the available labor to recover after natural disasters. Combining this effect with a disincentive to invest in human capital, Jones contended that the Asian regions would have featured an emphasis on quantity over quality in decisions on bearing and rearing children (2003, 15–21, 226–27).

But geography by itself cannot explain why Europe's relative economic success began during the first half of the second millennium rather than at some other time. Jones (2003) attributed early European economic development to several factors. First, the emergence of factor markets for land and labor made resource allocation much more responsive to pricing incentives (2003, xxi, xxxv). Second, European societies managed to curtail the degree of predatory taxing behavior by the governments, an effect helped by the fact that the number of states in Europe never shrank to one (2003, xxxvi).

Landes pointed to several additional factors that led to Western Europe's ascendance between 1000 and 1500 CE. Most obviously, technological innovations mattered. The three-field system of crop rotation and the development of iron tools for clearing forest and plowing Western Europe's heavier soil were critical for European development (Landes 1999, 41). He also claimed that Europeans had a higher regard for property rights than the people of other Eurasian regions, beginning with the Greek tradition of democracy and strengthened by subsequent influences (Landes 1999, 32–36). For example, Germanic customs arose in a nomadic community, in which clear individual ownership extended only to whatever a person could carry. The political fragmentation that existed after the fall of the Roman Empire deterred growth of the kind of authoritarian political power that could confiscate private property on a whim. And the Judeo-Christian tradition was based on Old Testament laws that clearly recognized private property and meted out punishment for violations of another's property. Knowledge of the Jewish laws spread with the translation of scripture into the vernacular among various "heretical" movements, including the Waldensians and Lollards during the medieval period.

Though he pointed out some of the ideological origins of property rights among Europeans, Landes did not provide compelling reasons why the rulers in medieval Europe would ever have protected these property rights. Nor did Jones fully explain why Europeans managed to curtail governmental predation. We fill this gap in existing analyses by explaining how the Church had both the incentives and the ability to stand up to secular authorities by developing a system of law that protected property from arbitrary appropriation by the state.

## 2. Religion and Economic Growth

We are hardly the first to suggest a connection between religion and economic growth. Max Weber set forth his well-known hypothesis in *The Protestant Ethic and the Spirit of Capitalism* (cf. Robert Nelson's chapter in this volume). Weber's thesis was that the spirit of modern capitalism is best characterized by a work-oriented ethic that regards labor as something to be done for its own sake, and not merely for the consumption it permits. He further argued that this ethic is most clearly articulated by "ascetic" Protestantism, particularly Calvinism. Thus, Weber argued that Protestantism was central to the rise of the "spirit of capitalism," if not capitalism itself.

While Weber's hypothesis is interesting and has attracted substantial attention, it has also been regarded as historically inaccurate. For example, Stark (2004, 465–68) summarized the work of several scholars who have found that capitalistic enterprises predated the Protestant Reformation by centuries. Moreover, Stark said that the work ethic that Weber attributed to Protestantism had previously been present in medieval Catholic monasticism and had been enacted in the laws of twelfth-century Italian city-states (which prohibited conspicuous consumption and luxurious lifestyles). Weber was likely correct that a new "ethic" was needed for a market capitalist economy to arise, but that ethic was not attributable solely to Protestantism.

In recent years, economists have been turning their attention to the role that religion and religious institutions play in the economic process. Barro and McCleary (2003) found that national aggregate measures of religious attendance and beliefs had significant effects on rates of economic growth in the late 20th century. Similarly, Guiso, Sapienza, and Zingales (2003) concluded that, on average, religious beliefs were associated with economic attitudes that favor economic growth. Richardson and McBride (2009) showed that religion provided a basis for cooperative behavior in medieval guilds where secular incentives were not up to the task. In a cross-sectional sample of 207 countries, North, Gwin, and Orman (2009) examined correlations between religious heritage and the level of rule of law in 2004. They concluded that the rule of law was significantly higher in countries whose largest religious group in 1900 was Protestantism, Catholicism, or Hinduism. Table 2 presents data from North, Gwin, and Orman (2009) on mean GDP per capita in 2001 for countries based upon their largest religious groups in the year 1900. There are substantial differences in GDP per capita across religious groups, perhaps suggesting that there are variations in economic development that are linked in some way to religious heritage.

**Table 2. GDP per Capita in 2001 by Countries' Largest Religious Group in 1900**

Largest Religious Group in 1900	Number of Countries	Mean GDP per Capita
African Ethnoreligion	36	\$2,067
Asian Ethnoreligion	8	15,088
Buddhist	8	6,025
Catholic	53	13,030
Hindu	4	4,800
Islam	41	6,091
Orthodox	13	7,223
Pacific Island Ethnoreligion	6	2,583
Protestant	38	16,545

Source: North, Gwin, and Orman (2009)

Whether and how religion is linked to economic growth is still an open question. North, Gwin, and Orman (2009) suggested one plausible linkage—different religions are correlated with varying levels of rule of law, and rule of law is a well-known correlate of economic growth (e.g., Scully 1988; Knack and Keefer 1995; Barro 1997, 2003; La Porta et al. 1998; Rodrik 1999). We now explore in detail one causal avenue for this linkage from religion to rule of law to economic growth in Western Europe: the development of law in the ecclesiastical courts of the Medieval Church, and the subsequent influence canon law had on the secular law of Western Europe.

### **3. Church Property, Ecclesiastical Courts, and an Emerging Rule of Law**

Jones (2003, xiv) noted that, among all of the Eurasian landmass, only Western Europe “managed the politically remarkable feat of curtailing arbitrary power, thus reducing risk and uncertainty, encouraging more productive investment, and promoting growth.” In fact, he attributes much of “the European miracle” to this accomplishment:

*Economic development in its European form required above all freedom from arbitrary political acts concerning private property. Goods and factors of production had to be free to be traded. Prices had to be set by unconditional exchange if they were to be undistorted signals of what goods and services really were in demand, where and in what quantities (200, 85).*

Why was Europe able to accomplish this feat, while no other region of the Eurasian landmass did? Our answer begins with the dual nature of the Medieval Church. As a way of understanding the differences in what motivated various individuals within the Church, Stark (2003, 40–46) categorized the Medieval Church into two distinct segments: a “Church of Power” and a “Church of Piety.” According to Stark, the Church of Power was “the main body of the Church as it evolved in response to the immense power and wealth bestowed on the clergy,” whereas the Church of Piety was “made up of those who were still committed to the moral vision of early Christianity.” Economic historian Douglass North also recognized this dual nature of the Medieval Church, describing it as both “the top-heavy bureaucracy of the late Roman Empire and the major center of material wealth, selling salvation in return for treasure and land” and “the Church of asceticism, extreme austerity, hermit life, and devout missionaries” (1981, 125). To somewhat oversimplify, the Church of Power resided in the papacy and the episcopate—that is, in the clergy who made up the main hierarchy of the Church. In contrast, the Church of Piety was centered in the monks who made up the various monastic orders and had submitted themselves to a more austere and pious existence than those in the Church of Power.<sup>2</sup>

Combining a deeper examination of the Church of Power and the Church of Piety with the excellent work of Harold Berman (1983), we offer an answer to why Western European countries were able to curtail the arbitrary power of the state: the centralized transnational hierarchy of the Roman Catholic Church provided a counter-balance to the power of the secular princes and developed a system of canon law that ultimately led to limits on the power of the state under secular law. The Church managed this feat despite having no real political authority only because (1) the Church of Power was willing to exercise whatever persuasive authority it had over the masses in its struggles against the secular powers, and (2) as discussed in the following sections, the Church of Piety provided credibility to the Church as a whole upon which the Church of Power could rest its persuasive authority.

This symbiotic relationship between the two parts of the Church was possible in Western Christendom because of the emergence of a centralized bureaucracy within the Church during the papal reforms of the 11th and 12th centuries. The centralized bureaucratic hierarchy distinguishes Western Christendom from the other major religions of Europe and Asia, none of which had a similar centralized authority that was distinct from the state.

### 3.1. Wealth worth Fighting For

The Church was a major landholder in Medieval Europe. Even during the later years of the Roman Empire, the Church already owned a significant amount of land (Pounds 1974, 17). “Before the year

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<sup>2</sup> The labels “Church of Power” and “Church of Piety” are useful generalizations more than complete descriptions of reality. There must have been some pious clergy within the Church hierarchy, and there also must have been some power-hungry monks within the monasteries. But the basic scheme seems reasonable—piety should have been greater in the monastic estates due to the greater sacrifice required to be part of a monastic order.

A.D. 900, the Church directly owned approximately one-third of all cultivated land in western Europe, including 31 percent of such land in Italy, 35 percent in Germany, and 44 percent in northern France" (Ekelund et al. 1996, 8 citing Herlihy 1961, 86).

The Church had acquired much of this land during the eighth and ninth centuries, when the Merovingian and Carolingian rulers had given large amounts of land to the Church through commendation. The Church also gained property during the eighth and ninth centuries through bequests. However, the haphazard nature of property acquisition by abbeys, monasteries, and other Church entities led to piece-meal layouts, as evidenced by the handful of surviving inventories of property held by ninth century monasteries. There is evidence, though, that the abbeys and monks consolidated their holdings by selling far-away parcels and acquiring property closer to home, and they also took steps to systemize production and impose manageable administrative units (Pounds 1974, Chapter 2).

By 1200, though, the Church's ownership of cultivated land in Western Europe declined to 15 to 20 percent. Half of this decline occurred between 900 and 1000 due to direct seizures of Church properties by various local rulers—with monasteries being the hardest hit—as well as leases from the Church to laymen (Herlihy 1961, 92–93). By 1000, the Church clearly saw itself under attack from secular rulers and needed a way to defend itself.

The Church's substantial tracts of land provided a tempting target for kings and princes looking for sources of revenue. Herlihy's (1961) estimates suggest that appropriations of Church properties may have reduced Church land holdings by as much as one fifth between 900 and 1000. The Medieval Church needed a mechanism to protect itself from these types of appropriations of property, and it found that mechanism in its own court system.

### 3.2. Ecclesiastical Courts and the Papal Revolution

Ecclesiastical courts were Western Europe's first modern legal system. They were the outgrowth of several revolutionary changes within the Church during the latter half of the 11th century. Most important was the reform of the papacy itself. From the time of Constantine to about 1000 CE, Roman Catholic clergy were more subject to the control of emperors, kings, and feudal lords than to the pope. Secular authorities appointed the clergy and provided them with funds. Beginning in the 10th and early 11th centuries, reformers within the Church sought to remove the secular influence and the corruption that accompanied it. The reform movement was centered in the monasteries, especially the Abbey of Cluny in France, and sought a number of reforms—such as stopping the buying and selling of Church offices ("simony") and ending clerical marriage—that linked bishops and priests into local politics (Berman 1983, 88–91.)

The papal revolution began in earnest with the selection of Pope Leo IX in 1049, who imposed celibacy on the clergy, opposed simony, and argued for the right of the Church to select its own leaders. Leo IX also formed a party within the Church to support his proposed reforms, and this group was led by a young monk named Hildebrand. In 1059, a council in Rome, called by Pope Nicholas II, declared that the Roman cardinals, rather than the Holy Roman Emperor, had the authority to select the pope. In 1073, Hildebrand was elected pope, and he became Pope Gregory VII. More than any other pope of the era, Gregory represents the reform movement of the 11th century. In 1075, Gregory declared greater authority for the papacy than it had ever wielded. He asserted that the Pope was supreme over the Church, including the right of the Pope to appoint bishops, and over all Christians. He also asserted authority over the secular rulers, including the emperor; Gregory declared that the Pope had the authority to remove the emperor from office

(Berman 1983, 94–95). Of course, declaring these things and making them happen were different matters. Berman summarized Gregory’s plight as follows:

*Lacking armies of its own, how was the papacy to make good its claims? How was it to overcome the armies of those who would oppose papal supremacy? And apart from the problem of meeting forceful opposition, how was the papacy to exercise the universal jurisdiction it had asserted? How was it effectively to impress its will on the entire Western Christian world, let alone Eastern Christendom, over which some claims of jurisdiction were also made?*

An important aspect of the answers to these questions was the potential role of law as a source of authority and a means of control (Berman 1983, 95).

Thus, the ecclesiastical courts began to develop a system of law that was to govern the Church’s internal and external relationships at both an individual and a corporate level. Control was centralized in Rome, and a new clerical hierarchy arose that Berman described as “the first translocal, transtribal, transfeudal, transnational class in Europe to achieve political and legal unity” (Berman 1983, 107–08).

The other major revolution that prompted the emergence of the ecclesiastical courts within the Church of Power was the development of a Scholastic approach to the study of law. Three factors combined to spark a new approach to law as a subject of study separate and distinct from the study of theology or other fields: (1) a rediscovery in about 1080 CE of the Roman law code compiled under emperor Justinian in Constantinople around 534 CE, (2) the emergence of a particular style of dialectical scholarship under the Church’s so-called “scholastics,” and (3) the growth of universities, beginning in Italy in the latter half of the 11th century. The canon lawyers developed a theory of law that sought to synthesize the various rules from Roman law, Church decrees, Greek philosophy, and more into a body of rules based on consistent principles that could evolve and grow as new situations arose. Underlying the whole was the canonists’ assumption that natural law was supreme to all other forms of law, so that the ecclesiastical courts could reject laws of both the Church and secular rulers if such laws were inconsistent with natural law as ascertained by the ecclesiastical courts (Berman 1983, 120–64).

Prior to the emergence of the canon law and the ecclesiastical courts, much of the law in Western Europe had been based on custom. Such law might be beneficial or not, but it had an aura of sacredness to it because it was part of a long-standing cultural custom. The canon law substituted its own preference for natural law in place of the sanctity of custom. According to Berman (1983, 145), “The theory that customs must yield to natural law was one of the greatest achievements of the canonists.” In large part, this achievement was significant because it had the effect of elevating laws over persons and laid the foundation for the idea of rule of law.

The canon law developed bodies of law governing a variety of subjects based upon the principles of the supremacy of natural law and the supremacy of the Church over all secular authorities. Ecclesiastical courts came to assert jurisdiction over cases based on the identity of the people involved in the dispute (“personal jurisdiction”) and on the subject matter being disputed (“subject-matter jurisdiction”). They also asserted jurisdiction over matters in which the parties had voluntarily chosen to submit the dispute to ecclesiastical courts and matters where there was a failure of justice itself in the secular courts. A summary of the matters within either the personal or subject-matter jurisdictions of ecclesiastical courts shows that a wide array of legal disputes came under the ambit of the canon law. The ecclesiastical courts asserted personal jurisdiction over all suits involving

- clergy and members of their households;
- students;

- crusaders;
- “wretched persons,” including poor people, widows, and orphans;
- Jews, in cases against Christians; and
- travelers, including merchants and sailors, when necessary for their peace and safety.

The subject-matter jurisdiction of the ecclesiastical courts extended to cases arising out of

- administration of the sacraments;
- testamentary matters;
- benefices, including church property;
- oaths, including pledges of faith; and
- sins meriting ecclesiastical censures.

From these lists, it is easy to see how the Church’s courts asserted jurisdiction over matters involving property and contract rights. Cases involving inheritance, marriage, Church property, and more would have put many property disputes within the ecclesiastical courts’ declared jurisdiction. Canon law courts determined contract rights in cases involving oaths and in contract disputes involving persons within the personal jurisdiction of ecclesiastical courts. In addition, ecclesiastical courts also had the chance to develop the substance of family law, the law of inheritance, and criminal and tort law (Berman 1983, 221–24).

Today, we know that effective rule of law is an important piece of the story of economic development. Many of the ideas generated in the medieval canon law courts have shaped our modern law in ways beneficial to economic growth. The transmission of legal rules from canon law into secular law began almost immediately after the establishment of the law faculty at the University of Bologna in the 12th century, as the lawyers who spread from Bologna to the rest of Europe were trained in the canon law and its methods. In this way, the secular law was influenced dramatically by the style and form of the canon law (Berman 1983, 162).

A few examples from Berman (1983) will suffice to show how canon law concepts and methods became part of our modern secular law. First, the Church subjected itself to a body of corporate law by which it governed itself. The ecclesiastical courts were the arbiters of this canon law of the corporation, and even the Pope was bound to follow the orders of the courts. This early modeling of the Church as a corporate body with its own existence separate from any individual and subject to the rules that created the corporation provided a model for secular governments that were similarly corporate in conception and limited by their own rules. The Magna Carta is one such set of rules, having been drafted in large part by the Archbishop of Canterbury (Berman 1983, 205–15.)

Second, in the canon law, marriage evolved from a sacrament that could be conducted without a priest into a body of contract law. The canon law of marriage valued the presence of freely-given consent to the marriage contract, and required the absence of mistake, duress, or fraud in the formation of the marriage contract. Such ideas were not only the foundation of modern law of marriage, but also of modern contract law (Berman 1983, 227–28). The defenses of mistake, duress, and fraud, formulated in ecclesiastical courts, continue to be an important part of modern contract law.

Third, ecclesiastical courts were never fully successful in wresting away jurisdiction from secular courts over devises of land upon the death of the owner. In response, the canon law developed the instrument of the *inter vivos* trust as an alternative to a testamentary devise of land. The concept of the trust eventually carried over into secular law and in England became part of the jurisdiction of the court of chancery, the royal court of equity. One key innovation in the canon law was the *cy pres* doctrine, which is still the law in much of the United States (Berman 1983, 234–36). The modern *cy pres* doctrine allows courts to modify the terms of a charitable trust if its original purposes become impossible, impracticable, or illegal to perform. This doctrine–originated in the

canon law—is notably absent in the Islamic laws of the *waqf*, as described in Kuran (2004b). The *waqf* was a form of charitable trust under Islamic law, but the resources committed to the *waqf* were required to be used forever for their initially-designated purposes, lest the *waqf* be handed over to the state. Kuran (2004b) argued that the static nature of the *waqf* served for centuries as a hindrance to economic development in Islamic lands. In contrast, the *cy pres* doctrine developed in the ecclesiastical courts permitted the purpose of property held in trust to change when the original purpose of the trust became impossible or illegal, thereby assuring that no resources would be held in perpetuity in uses that would eventually become socially inefficient.

The ecclesiastical courts were a revolutionary innovation run by the Church of Power. They had jurisdiction over Church property, including the monastic estates within the Church of Piety that generated so much wealth for the Church and that had come under attack in the century before the papal reforms. The Church had both the motive and the method to protect itself against the arbitrary encroachments of the state. But why did anyone—particularly the rulers—do what the ecclesiastical courts said? Before we can answer this question, we first must discuss the idea of economic cooperation within the context of the monasteries of the Church of Piety.

### 3.3. Cooperation and Productivity

In the jargon of game theory, “cooperation” occurs when people work together for their mutual good, even though it is possible for each person to gain a little extra by being more selfish. A classic example of cooperation is the Infinitely Repeated Prisoner’s Dilemma, in which two players play the “stage game” in Figure 1 over and over forever.<sup>3</sup> The stage game gives each player two strategic choices—Cooperate or Defect. The numbers in each cell represent payoffs to Player 1 and Player 2, respectively, for the combination of strategies associated with the cell. The traditional solution approach to this game is the Nash equilibrium, which occurs in any cell where neither player can improve his payoff by switching to another strategy. Players prefer higher payoffs to lower ones.

**Fig 1. A Prisoner’s Dilemma Game**

		Player 2	
		Cooperate	Defect
Player 1	Cooperate	2, 2	0, 3
	Defect	3, 0	1, 1

One defining characteristic of the Prisoner’s Dilemma is that “Defect” is a dominant strategy for both players. That is, no matter what Player 2 chooses to do, Player 1 can get a higher payoff by

<sup>3</sup> In this chapter, we discuss cooperation among players known to each other in advance. The chapter in this volume by Bulbulia and Schjoedt examines from a social neuroscience perspective how cooperative behavior can emerge at a societal level among people who do not know each other in advance.

choosing “Defect.” The same is true for Player 2. As a result, the unique Nash equilibrium of the stage game is for both players to defect, yielding payoffs of (1, 1) to the players.

Of course, both players could obtain better payoffs of (2, 2) if they were to play (Cooperate, Cooperate). This combination of actions is not a Nash equilibrium in the stage game, though, because either player could obtain an even higher payoff by playing “Defect” in response to the other player’s “Cooperate.” The crux of the problem of cooperation is how to overcome the short-term incentive to defect in settings like the Prisoner’s Dilemma.

One example of a Prisoner’s Dilemma-like setting is team production, where it is often the case that all that can be clearly measured is the total output of the team. If a team shares the profit from its output, any individual worker could slack off without lowering the entire team’s output by much. Thus, there is a strong temptation for individual workers to shirk and thereby “free ride” off of the labor of others. In a medieval estate, agricultural output depended in part on how hard individual serfs decided to work in the manor’s fields. If all the serfs worked hard, then the output would be higher, the manor would be wealthier, and some of that wealth could (perhaps) be shared with the serfs by a benevolent lord. But, for any single serf, there was an incentive to shirk; one person’s reduction in effort would have no observable effect on total output, but that one person would certainly enjoy working a little less hard. The problem, of course, is that output does fall if every serf follows his incentive to shirk, and widespread shirking makes everyone worse off—even if the workers share the joint output.

If a Prisoner’s Dilemma is infinitely repeated, strategies exist that can sustain a Nash equilibrium in which both players choose to cooperate in every period of the game. Robert Axelrod’s well-known *The Evolution of Cooperation* studied cooperation within the context of a Repeated Prisoner’s Dilemma. Axelrod organized computer simulations of Repeated Prisoner’s Dilemmas to determine what types of strategies led to higher payoffs in such settings. He concluded that the strategies that were more successful were those that (1) did not cheat first, (2) were willing to dispense proportionate punishments for cheating by others, (3) were thereafter able to forgive those acts of cheating, and (4) were easy for other players to recognize (Axelrod 1984, 54). North and Taylor (2004) pointed out noteworthy similarities between what Christian scriptures teach about how to interact with other people and the traits of the strategies that Axelrod found to be successful. However, North and Taylor did not discuss whether Christian teachings might have encouraged cooperation in the past, and thereby fostered economic growth.<sup>4</sup> This paper takes on those questions in the context of the monastic estates of the medieval period.

#### 4. Cooperation in Monastic Orders and Estates

The monasteries of Western Europe grew wealthy in part because they benefited from cooperative behavior within their walls. This cooperation was rooted in the devotion and religious ethic characteristic of the Church of Piety. Shared beliefs and social norms provided a substitute for monitoring costs within the monasteries, allowing them to spend more resources in production.

Our analysis of monastic production from a principal-agent perspective is an important addition to the work of Ekelund et al. (1996), who viewed monasteries and parish churches as downstream suppliers of a monopoly Church’s product. Because of this relationship, some typical principal-agent problems arose between the upstream Church hierarchy and the downstream

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<sup>4</sup> Similarly, North and Taylor (2004) did not examine whether the doctrines or sacred texts of other religions might also be capable of encouraging cooperative behavior.

monasteries, and the Church resolved such problems by making monks and parish priests into residual claimants of certain forms of revenue flows over which those clergy had the greatest control. Even so, Ekelund et al. (1996, 53) contended that workers in the monasteries faced a strong incentive to shirk because production was often done in teams, creating the chance to free ride off of other team members. However, Ekelund et al. did not consider how shared religious beliefs and social norms among the monks could have induced higher effort levels with lower monitoring costs, thereby reducing the free rider problem.

Christian scripture contains numerous teachings that should encourage cooperative behavior. The “Golden Rule” instructs Christians on how to treat others: “Do to others as you would have them do to you.” (Luke 6:31) Christian scripture also posits a broad conception of one’s brother; indeed, Christianity can be read to say that no one is truly “other.” For example, in the Parable of the Good Samaritan (Luke 10:29–37), the “neighbor” is a Samaritan, an ethnic group of half-breeds who were viewed with contempt by the Jewish society of Jesus’ day. Similarly, in Acts 10, the Apostle Peter has a vision instructing him to eat unclean food, ultimately leading Peter to see that the gospel is meant to go beyond ethnic Jews. Acts 16 describes the Apostle Paul’s vision of a man of Macedonia calling Paul to preach the gospel to the Gentiles. In Galatians 3:28, Paul writes, “There is neither Jew nor Greek, there is neither slave nor free, there is neither male nor female; for you are all one in Christ Jesus.” Admittedly, we are glossing over some important exegetical and historical matters here, but it is fair to say that the core of the Christian religion was very open to people that typical Jews of New Testament times would have considered “unclean” or “other.”

With a Golden Rule ethic and an openness to others, interactions between truly faithful followers of Christianity should have led to the type of cooperative behavior that can fuel economic success. Of course, whether such behavior should have emerged and whether it actually did emerge are wholly separate questions. The medieval period in church history was characterized by clergy of dubious morals, by a series of Crusades against “others” in the Middle East, and by second-class treatment of Jews and other ethnic minorities throughout Western Christendom. Nevertheless, if there were clusters of individuals who actually tried to follow the Christian teachings described above, then such clusters should have prospered financially as well as spiritually relative to others around them. The monks living in the monasteries composed just these sorts of clusters. They were more inclined than most to know and follow Christian teaching on how to interact with others. In the closely-knit communities of the monasteries, it would have been apparent that the monastic order could best prosper if all its members contributed cooperatively to the group’s work.

Many of the monastic orders were organized around the Rule of St. Benedict, which specified how the monasteries were to be organized and operated and also provided rules to govern the daily activities of the monks. (Ekelund et al. 1996, 42) The main economic goal of the Rule was to make the monastery self-sufficient and self-contained, to assure both the material and spiritual well-being of the monks. The Rule placed high importance on community and required monks to abide by a vow of obedience to the abbot, the head of the monastery. Benedict’s Rule was notable for the balance it introduced into monastic life. Monks were allowed sufficient food to sustain their strength, proper clothing to stay warm in cold climates, and sufficient sleep (7–8 hours a night) to sustain health. The work day was split fairly evenly among prayer and liturgical duties, manual labor appropriate to the monk’s skills and abilities, and study of Scriptures and spiritual writing. Even so, monks were expected to keep to their vows of poverty, chastity, and obedience. In all, the Rule of St. Benedict laid down a set of expectations that, if followed, would have eliminated many of the principal-agent problems identified by Ekelund et al. The superior productivity of the monastic estates suggests that these principal-agent problems were in fact resolved.

Douglass North (1981, 125) noted that “[m]onasteries were frequently the most effective farming centers in the Middle Ages.” There are two important reasons for the increased productivity of the monastic estate: monasteries were able to generate more food and other goods than the monks themselves needed, and they invested these surplus resources into productive capital and improved technology. The available evidence suggests that monasteries were already generating surpluses in the early Middle Ages. There are few surviving records of monasteries from the eighth and ninth centuries, so inference about the entire set based on the surviving sample is obviously imperfect. Nevertheless, one very large monastic estate in north-central Italy (St. Giulia, near Brescia) received far more income in kind—both food and non-food items—from its possessions than the monastery could consume, and the monastery was likely selling its surplus at market to provision the towns in its region (Pounds 1974, 64).

Similarly, the tenants of the monasteries of the Low Countries, northern France, and Germany were weaving surplus cloth for export (Pounds 1974, 106, 306–07, 315). Within a few hundred years, monasteries were substantial wool traders, and there was substantial demand for their woolen cloth because of its high quality (Ekelund et al. 1996, 52). Indeed, the monasteries were the original loci of manufacturing activity in the eighth and ninth centuries, making their own cloth, salt, timber, and iron. This monastic dominance of manufacturing did not last, though. From the tenth through the twelfth centuries, manufacturing shifted from the peasant laborers in the monasteries to specialized workers in urban centers (Pounds 1974, 283–84, 333, 340). Nevertheless, the early dominance of monastic estates in the manufacturing realm is evidence of their ability to generate agricultural surpluses larger than other types of estates.

How did the monasteries generate these surpluses? Typically, monasteries followed a life cycle. In the earliest phase, they were centers of religious devotion sustained primarily by their own production of food, clothing, and so on. Over time, the monasteries were able to produce more than they needed for their own support, and so they turned to trading in the market as a means of selling surplus output. As would be expected in a market economy, monasteries “began to operate like agricultural firms” (Ekelund et al. 1996, 43). They invested in commercial vineyards and began raising sheep and other animals on lands that were of marginal planting value. The monasteries of the Cistercian Order developed a specialized class of monks called the *conversi*, lay brothers who performed much of the manual labor of the monastic estate. This permitted a degree of specialization by the various types of monks, which increased not only agricultural output but also the amount of devotional activities among the choir monks. (Pounds 1974, 172; Ekelund et al. 1996, 43–45, 51)

The monastic estates that used *conversi* also were better able to adhere to the three-field system of crop rotation than were either secular manors or monastic estates that relied on peasant labor.<sup>5</sup> From a consumer’s standpoint, the main problem with the three-field system is that the

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<sup>5</sup> The three-field crop-rotation system splits the estate into thirds. On one-third, an annual crop (such as wheat or rye) is sown in the fall and harvested the following fall. Another one-third of the estate lies fallow for half of the year, and then a spring-sown crop (like oats or barley) is planted for harvest in the fall. The final third is left fallow, and animals graze there, so that the soil is nourished both by natural replenishment and from animal manure. Thus, two-thirds of the estate is put into production each year, and harvests are increased. (Pounds 1974, 190–93.) The three-field system contrasts with the older two-field system, in which half of the field is used to grow an annual crop while the other half is left fallow. Under the two-field system, only half of the estate is used for production of a crop in any given year, while in a three-field system two-thirds of the estate is productive in any given year. Yet, in both systems, all parts of the estate are fallow for one-half of the crop-rotation cycle.

spring-sown crops (oats and barley) make less-appealing bread than wheat or rye. Barley could be made into beer; oats were fed to horses and used when needed for human consumption as porridge or for beer when barley was unavailable. Because of the better command over the labor force, abbeys using *conversi* were able to enforce use of the three-field system, thereby producing more crops and better-fed horses (which in itself enhanced productivity). In contrast, manors relying on peasant labor often had to limit themselves to a two-field system in order to grow more of the bread grains that the peasants themselves wanted (Pounds 1974, 190–93).

Thus, monastic estates were more productive than other manors in part because the benefits of cooperation allowed them to produce more output. But the monasteries also used this surplus to invest in capital that enhanced the productivity of all the workers. Ekelund et al. (1996, 53–54) said that the monasteries had an incentive to develop labor-saving technologies and more efficient farm-production techniques, in order to allow the monks to meet their spiritual obligations. According to Landes (1999, 58), monastic estates made early use of extensive power machinery to perform the tasks of the estate. In addition, the surplus wealth of the monasteries allowed them to clear large amounts of forest land and to reclaim marshland, which “necessitated not only a considerable expenditure, but also the employment of a large body of workers. In the reclamation of the coastal marshes, especially those of the Low Countries, the monasteries played a prominent role” (Pounds 1974, 172–73).

The heavy plow was another form of capital that was relatively more available to the monastic estates because of their greater wealth. As a technological innovation, the heavy plow was most valuable in the hands of an organization with a highly cooperative workforce, like a monastery. Pounds describes the heavy plow as “a cumbersome instrument, fitted with wheels which controlled the depth to which the share cut into the soil; a coulter, which made a vertical cut through the soil, and a mouldboard, which undercut the sward and turned it over” (Pounds 1974, 194). Light plows did little but scratch the surface of the earth without turning over the soil. In contrast, the heavy plow was able to cut into the soil, turn the sod, and bury the weeds. The heavy plow required a team of animals to pull it and at least two men to control the animals and the plow. Using horses in combination with oxen increased the speed of plowing, thus making spring-sown oats valuable as horse feed to the plow’s owner. A heavy plow was difficult to turn around at the end of a furrow, which led to fields being cultivated in longer, thinner strips (a “furlong”). The heavy plow created economies of scale in agricultural production. The tracts farmed individually by most peasant families were too small to sustain a full team, and the plow was too expensive for a peasant family to own (Pounds 1974, 55–56, 195–96). Thus, the heavy plow necessitated a communal effort at plowing; when it was used, the heavy plow spurred large increases in agricultural productivity. It would have been most productive in larger, well-organized communities characterized by cooperative behavior, such as the monastic estates.

Finally, the monasteries probably also had higher quality workers (i.e., better human capital) because of their ability to select their own members. Both choir monks and *conversi* came from outside the Church and had to go through a rigorous selection process before being admitted into the order of monks. It is also likely that some initiates came from boys who had grown up as orphans within the monasteries, and that the monks retained the better workers while allowing the less productive ones to depart the monastery upon attaining majority.

In summary, most evidence suggests that monastic estates were more productive than other types of estates. Cooperative behavior within the monastery generated higher effort levels without having to increase monitoring costs. The monasteries also were early adopters of technological innovations that added to the productivity gains made possible by increased cooperation. And the religious character of the monastic estate made use of these technologies more effective. The three-field system could be implemented because of the better control over the workforce, and the higher

surplus from cooperative behavior likely generated the initial wealth needed to adopt the heavy plow and various water-driven machines. The monastic estates of the Church of Piety were a great source of wealth for the Church as a whole, a fact that necessitated action by the Church of Power to protect the Church's wealth from secular rulers. As already discussed, the Church used its own courts to provide that protection, but why did anyone follow the orders of the Church's courts?

## 5. The Authority of the Ecclesiastical Courts

The penalties for violations of canon law were mainly limited to religious sanctions, ranging from minor acts of penance up to the extreme punishment of excommunication (Ekelund et al. 1996, 62, 65). Without backing from political rulers, the Church did not have any way to implement its orders by force. Instead, for religious sanctions to be followed, the Church had to maintain the credibility of its spiritual teachings so that both the penitent and the society around him feared the Church's ability to control spiritual outcomes. If neither the masses nor the rulers believed the Church's message regarding sin and salvation, then the punishments available to the ecclesiastical courts—being entirely religious in nature—were doomed to fail. Had the Medieval Church consisted only of the Church of Power, it is likely that the Church would not have had sufficient credibility with rulers and the masses to give teeth to its religious sanctions. It was the Church of Piety that gave credibility to the Church as a whole through its devotion to the people, through delivery of religious and social services, and through its relatively ascetic lifestyles. A symbiotic relationship thus existed between the two “churches:” the Church of Piety generated credibility and authority among the Christian populace for the Church of Power, and in return the Church of Power used its power in general and its court system in particular to protect the Church of Piety from abuse and appropriation of resources by secular political forces.

The ecclesiastical courts also used other strategies to enhance their own credibility. Clergy were held to higher standards of conduct than laypersons in similar cases. Medieval canonists concluded that the Pope could be removed from office under canon law, placing a check even on the head of the Church (Berman 1983, 158, 191). By holding its own membership to higher standards than everyone else, the Church built credibility for its court system and reinforced its role as protector of rights against an arbitrary state.

Of course, the Church of Power could not forever rely on the Church of Piety to build credibility. Monasticism declined with feudalism. The Black Death dramatically reduced the population during the 1300s, so that the price of labor increased relative to the value of land. With laborers in short supply, markets for labor emerged to provide peasants with work opportunities beyond the manor. To retain agricultural workers, manorial lords altered their relationships with peasants, giving peasants more and more control over the land that they farmed and paying them for service on the demesne. These changes in relations between lord and servant, caused by the emergence of free markets for labor, constituted the ultimate destruction of the feudal system (North and Thomas 1973). Similarly, the opportunity cost of becoming a monk increased dramatically, leading to a decline in the size and influence of the monasteries. But by the time these things happened in the late medieval period, the foundation of rule of law was laid. Berman (1983, 24) wrote that the various European revolutions that followed the papal revolution—the Protestant Reformation and the English, French, and Russian revolutions—all built upon the framework of the canon law. In this way, the canon law revolution of the 11th century was perpetuated into modern times by the legal systems in most of the developed world. Limitations on the state were created, and the modern economies of Western Europe began truly to be built.

## 6. The Need for Comparative Analysis

Up to this point, we have presented a hypothesis—that a symbiosis between the two medieval “churches” was critical in allowing ecclesiastical courts to lay the foundation for the modern rule of law—and presented evidence in favor of that hypothesis. What remains to be done is to test the hypothesis with some form of “control group.” Ideally, we would have reliable and meaningful measures for Medieval Europe and Asia of things like the relative power of church and state, the nature of secular and religious court systems, and beliefs about religious systems, which would allow us to perform statistical analyses. But we do not have such data. Instead, the best option is to conduct comparative case study analyses, of which we will provide a brief sketch below.

In performing this comparative analysis, we ask only whether other cultures and civilizations in Europe and Asia could have had their religious organizations contribute to an emerging rule of law. If other religious organizations in Eurasia had circumstances similar to those in the Medieval Church, then our hypothesis implies that similar legal innovations should have occurred in those regions. On the other hand, evidence that the Medieval Church was unique in important ways that contributed to the emergence of the canon law system would support our hypothesis.

The key feature of the Medieval Church that allowed it to become a legal innovator was its “translocal, transtribal, transfeudal, transnational” scope (quoting Berman 1983, 108). The Church’s integrated hierarchical nature, transcending political boundaries, generated for the Church a degree of influence and authority not held by clerics in other regions of the world. As a result, there was no other religious organization in the rest of the world that had the Medieval Church’s ability to provide a counter-balance to the power of secular rulers. A few examples will provide some evidence, but each one still needs to be further investigated.

We begin with Eastern Europe. One possible alternative hypothesis to the one we raise is that Christianity as a whole was conducive to economic growth. The fact that Eastern Europe languished in the Medieval period while Western Europe grew suggests that, if religion provided preconditions to economic growth, the process was peculiar to Western Christianity. One thing that was very different in Eastern Christianity was the relationship between the various political authorities and the Orthodox Churches. Of course, the Eastern Churches go back to the founding of Christianity. After Rome fell and the Roman Church slowly learned to fill the governance gap left behind, the eastern half of the Roman Empire lived on in Byzantium. Whereas the Western Church developed Latin rites and traditions, the Eastern Churches were rooted in Greek. And if the Greek Church was centered anywhere, it was in Byzantium at the center of the empire.

The model of church and state in the Byzantine Empire was markedly different from what emerged in Western Europe in the wake of the papal reforms of the 11th and 12th centuries. Beginning with Constantine, the emperor became protector of the church and had authority over its earthly aspects. The priests possessed spiritual but not temporal authority over the church (Chidester 2000, 161–63). With the eastern priesthood subordinate to the emperor in temporal matters, there was little need for a full and robust body of church law.

As Eastern Christianity expanded throughout Eastern Europe, the Byzantine church-state model went with it. The Patriarch in Byzantium never gained authority over all of the other Orthodox churches in the way the Pope had done. What resulted, then, was a system in which each important political entity had its own Orthodox Church with its own patriarch, each of whom was head of his own Church. The various national Orthodox churches of Europe (such as the Greek,

Russian, Bulgarian, Romanian, and Serbian churches) were in cooperation and fellowship with each other, but they never became the “translocal, transtribal, transfeudal, transnational” organization that Berman (1983) described. The Orthodox Churches never were in a position to be a counter-weight to their respective political powers. As a result, they could not have developed a body of law in the same way that the Western Church did.

Islam was born when Muhammad received a series of revelations from Allah through the angel Gabriel during the 7th century CE. In Muhammad’s lifetime, he was not only a spiritual leader but also a temporal ruler as well. Religion and government were united in the person of the Prophet (Smith 1991, 229). Though Muhammad died in 632, a decade after assuming temporal leadership in Medina, the model for “church-state”<sup>6</sup> relations was already set. Religious and temporal power were merged, first in the Prophet, then in the series of “Rightly Guided” caliphs from 632 to 661, followed by the Umayyad and Abbasid dynasties, and ultimately in the Sultan of the Ottoman Empire. Stated simply,<sup>7</sup> no Islamic hierarchy ever emerged that paralleled the organization of the Roman Catholic Church, and political and religious power were merged throughout much of Islamic history. These two facts made it impossible for Islam to experience the same religion-led legal innovation that occurred in Western Europe, because it would have required the caliph to stand up against himself.

The story of “church” and state in China is conceptually similar to that of Islam: the Chinese emperor was also a religious leader and thus was unlikely to counter-balance his own power. Additional research is needed on Buddhist monasticism in China to explore the potential for the monks to build a power base separate from the emperors.

India followed a different path, in that large parts of India were ruled by Islamic invaders for a substantial part of the time period in question in this chapter (1000–1500 CE). Even so, many Indians retained their own religious beliefs rather than converting to Islam. North, Gwin, and Orman (2009) found that countries that were Hindu in 1900 had significantly higher levels of rule of law in 2004 than countries whose largest religion in 1900 was Islam, African tribal religion, or Orthodox Christianity. Whether this finding has any basis in the religious history of India is another part of our long-term project.

In summary, it is likely that, among Eurasian civilizations, only Western Europe had a religious environment that would allow a religious organization to do what the Medieval Catholic Church did—set itself up as having authority to develop its own legal system that was binding on the secular political powers.

## 7. Conclusion

In this chapter, we add to the overall understanding of the many reasons why modern economic growth happened first in Western Europe by emphasizing the under-appreciated role of the Roman Catholic Church. The Church’s teachings, if followed, led quite naturally to increases in cooperative behavior within the Church. The gains from cooperation emerged most clearly within the monastic estates of the Church of Piety, which grew wealthy because they out-produced their secular

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<sup>6</sup> We use the term “church” in this section of the chapter only as a convenient shorthand for the various religious organizations discussed.

<sup>7</sup> Timur Kuran has written extensively on the subject of underdevelopment in the Islamic world. Some examples include Kuran (2004a) and Kuran (2004b). He dealt specifically with legal formation in Kuran (2005, 789–99).

manorial counterparts. This growing wealth drew the interests of the secular rulers, who began appropriating Church lands between 900 and 1000 CE. In response, the Church of Power reformed itself during the late 11th century under several popes, including Gregory VII. In the process of these reforms, the Church of Power increased its own levels of piety, asserted its authority over the secular rulers, established a transnational bureaucracy with the sway and influence to stand up to secular authorities, and developed its own legal system from which to enforce and enshrine these reforms. The canon law system provided an effective and comprehensive legal system in Western Europe, where none had really existed, and the Church was able to use this court system to guard itself and others against arbitrary secular rulers.

Of course, courts cannot enforce their own decrees; they must derive their legitimacy from somewhere. The ecclesiastical courts—themselves part of the Church of Power—gained legitimacy among both the princes and the paupers in part because of the goodwill built up by the Church of Piety. In summary, the Church of Power had ambition, but to fulfill its ambition it needed both the wealth and the credibility generated by the asceticism and service of the Church of Piety, both of which were made possible by the monasteries' surplus production. The Church thus protected the legal rights of both parts of its dual nature through a court system whose credibility was derivative of that of the Church of Piety. The canon law and the ecclesiastical courts thus developed laws that restricted the power of the state as against property holders (including the Church itself), and these legal principles were eventually put into the law of most countries of Western Europe. In this way, the Medieval Church's efforts to protect itself from princes and rulers led to a rule of law based on limited government—an innovation that paved the way for Western Europe's economic ascendance.

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