

# Matic Kristan

## Usury in the *Summa* of Monaldus: Sources, Composition, and Intentions of a 13<sup>th</sup> Century Encyclopedia of Law

**KRISTAN, Matic**, MA in History, Assist., Young Researcher, University of Ljubljana, Faculty of Arts, Department of History, SI-1000 Ljubljana, Aškerčeva 2, matic.kristan@ff.uni-lj.si

ORCID: <https://orcid.org/0000-0002-7956-4794>

**Usury in the *Summa* of Monaldus: Sources, Composition, and Intentions of a 13th Century Encyclopedia of Law**

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The *Summa* of Monaldus is the first encyclopedia of law. Monaldus introduced the alphabetical order of entries, subsections and itemization of paragraphs. The analysis of the entry on usury shows that the bulk of the text is an integration of Raymond's *Summa* and the corresponding William's gloss. Some editorial decisions and additions reflect Monaldus's own legal thought. His emphasis on the lender's intention reveals somewhat lenient views of usury compared to some of his predecessors. Moreover, we can see a general tendency to make the text as accessible as possible. Monaldus omits obscure legal concepts and replaces lesser-known placenames with those familiar to his readers. He quotes only the essential sources, omitting other citations. This approach matches his declared wish to improve knowledge of the law, especially among the "simple".

**Keywords:** Monaldus, usury, canon law, medieval law, *summa*

**KRISTAN, Matic**, mag. prof. zgod., asist., mladi raziskovalec, Univerza v Ljubljani, Filozofska fakulteta, Oddelek za zgodovino, SI-1000, Aškerčeva 2, matic.kristan@ff.uni-lj.si

ORCID: <https://orcid.org/0000-0002-7956-4794>

**Oderuštvo v Monaldovi *Summi*: viri, sestava in nameni pravne enciklopedije iz 13. stoletja**  
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Monaldova *Summa* je prva enciklopedija prava. Monald je uvedel abecedni vrstni red gesel, podgesla in itemizacijo paragrafov. Analiza gesla o oderuštvu kaže, da večino besedila predstavlja integracija Rajmondove *Summe* in pripadajoče Viljemove glose. Nekatere uredniške odločitve in dodatki kažejo Monaldovo lastno pravno misel. Njegovo poudarjanje namena posojilodajalca nakazuje nekoliko milejše poglede na oderuštvo v primerjavi z njegovimi predhodniki. Prav tako lahko opazimo splošno težnjo po tem, da bi besedilo napravil karseda dostopno. Monald izpušča obskurne pravne koncepte in nadomešča manj znana krajevna imena s tistimi, ki bi bila znana njegovim bralcem. Citira le temeljne vire in izpušča druge citate. Ta pristop se ujema z njegovo izrecno izraženo željo, da bi izboljšal poznavanje prava, zlasti med »preprostimi«.

**Ključne besede:** Monald, oderuštvo, kanonsko pravo, srednjeveško pravo, *summa*

## Introduction<sup>1</sup>

Monaldus of Koper/Capodistria was a Friar Minor who in the 13<sup>th</sup> century authored the first encyclopedia of law.<sup>2</sup> It contains 286 entries (*tractatus*) which are, and this was arguably the crucial innovation, arranged alphabetically.<sup>3</sup> The work is generally known as *Summa de iure canonico*;<sup>4</sup> it will henceforth be referred to as *Summa* for short. It survives in at least 70 manuscripts,<sup>5</sup> a testament to its popularity. Various areas of the law are addressed: Church law, procedural, civil, public and criminal law as well as general legal concepts.

The present article will analyze the »genesis« of the *Summa* of Monaldus. What this means is that we will attempt to identify the sources Monaldus drew upon for the content of his *Summa*, the editorial choices he made in composing it and the intentions with which he set out to write the work. Since the *Summa* is quite voluminous, the scope of this article inevitably must be limited. We will focus on a single entry, namely the one on usury (*De usura*). Consequently, our conclusions will necessarily be valid only for the entry in question: it is important to keep in mind that this represents only 3 percent of the total text.<sup>6</sup> However, the entry of usury is among the more substantial ones of the *Summa*.<sup>7</sup> We can reasonably expect that the conclusions will be at least somewhat representative of the entire work.

<sup>1</sup> The present article is based on the master's thesis I defended in 2024: Kristan, "Oderuštvo v Monaldovi *Summi*." I would like here to once again express my gratitude to the many people who offered their advice while I was writing the thesis. Additionally, I would like to thank my colleague Manja Uršič for revising the text of this article.

<sup>2</sup> "Encyclopedia" is defined here as a work that provides a comprehensive overview of a field and is divided into discrete entries arranged by alphabetical order.

<sup>3</sup> The number is based on the printed 16<sup>th</sup> century edition of the work: Monaldus, *Summa perutilis atque aurea*.

<sup>4</sup> The title is not consistent across manuscripts, but it commences with the phrase *Summa de iure canonico* at least in Bibliotheca Apostolica Vaticana, Ott. lat. 630; Narodna in univerzitetna knjižnica (Ljubljana), Ms. 33; and Grootseminarie (Brugges), Ms. 45/144.

<sup>5</sup> Brancale, "Indice analitico," the only list of manuscripts for the *Summa* published so far, lists 65 manuscripts. At least five must be added to the list: Narodna in univerzitetna knjižnica, Ms. 33 (Ljubljana); Berkeley Library (University of California), Robbins 79; Grey's Inn Library, Ms. 116 (London); Basel University Library, Ms. C V 38; and Bibliothèque Municipale (Luxembourg), 103. The final number could be substantially higher still.

<sup>6</sup> Calculated using Monaldus, *Summa perutilis atque aurea*.

<sup>7</sup> The fifth longest, to be precise. The only longer entries are the ones on marriage (20 folios), restitution (15 folios), excommunication (15 folios) and simony (12 folios). Most entries

One of the main problems, as with many other medieval texts, is the absence of a critical edition. The only printed edition of the *Summa*, published in 1516, is textually so faulty that it is safer to work with a good manuscript when dealing with the text in-depth. Our master's thesis, which also forms the basis of this article, included a critical text of the Monaldus's entry on usury. There, we introduced numbering of sections and paragraphs, a measure which is not present in the *Summa* itself but seemed necessary if *De usura* was to be discussed in detail. At the beginning of individual paragraphs, there are footnotes identifying the sources Monaldus used. Where no source is listed, we currently presume the text to be Monaldus's original writing. It is this critical text that will be referenced throughout the article. While it cannot be reproduced here in its entirety, it is freely accessible on the university website.<sup>8</sup>

### Monaldus as a historical personality

The topic of Monaldus as a historical personality has seen some discussion. Collected papers published by the Franciscan province of Venice in 1982 include important basic research, including an index of manuscripts of the *Summa*,<sup>9</sup> an extensive historical bibliography starting from the earliest attestations of Monaldus<sup>10</sup> and a bioanthropological analysis of his remains.<sup>11</sup> Nataša Golob offers important insight from a codicological perspective in her catalogue of selected Slovene manuscripts.<sup>12</sup> Collected papers published in Koper in 2013 bring a detailed analysis of a manuscript of the *Summa* held by the National and University Library in Slovenia<sup>13</sup> and an overview of his work from a canonist perspective.<sup>14</sup> The most recent study of the biography of Monaldus is an article by Ana Jenko Kovačič.<sup>15</sup>

Finer points of the prosopography of Monaldus cannot be repeated here in detail, but it seems useful to present at least the basic facts. In 1257, Monaldus is attested in a parchment from Trieste as the Provincial Minister of Friars Minor:<sup>16</sup> this is the only contemporary attestation known so far. In 1285, the canonist Peter John Olivi mentions Monaldus as deceased. Bioanthropological analysis of his remains has shown that he died aged around 70 years, so he was most likely born in the 1210s.<sup>17</sup> The *Summa* itself is usually dated between 1254 and 1274 since

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are substantially shorter; some are just a paragraph long. The count is based on Monaldus, *Summa perutilis atque aurea*.

<sup>8</sup> Kristan, "Oderuštvo v Monaldovi *Summi*," pp. 80–116. Available on the online repository of University of Ljubljana (<https://repozitorij.uni-lj.si/IzpisGradiva.php?id=160653&lang=eng>).

<sup>9</sup> Brancale, "Indice analitico."

<sup>10</sup> Decarli, "Saggio di bibliografia."

<sup>11</sup> Busoni et al., "Lo scheletro."

<sup>12</sup> Golob, *Manuscripta*, p. 177.

<sup>13</sup> Golob, "Monaldova pravna enciklopedija."

<sup>14</sup> Papež, "Summa de iure canonico."

<sup>15</sup> Jenko Kovačič, "Opombe."

<sup>16</sup> Parentin, "Tre pergamene."

<sup>17</sup> Busoni et al., "Lo scheletro." His remains were formerly kept in Koper/Capodistria (Slovenia) but were transferred to Venice after the Second World War. They are currently placed on a side altar of the Church of Santa Maria Maggiore in Trieste.

it includes some decrees of Pope Innocent IV († 1254), while no decisions of the Second Council of Lyon (1274) seem to be reflected in the text.<sup>18</sup>

It must also be emphasized that Monaldus is often confused with some of his namesakes, even in newer literature: with Monaldus, martyr of Ancona († 1288); Monaldus, bishop of Melfi († 1330); and Monaldus, archbishop of Benevento († 1331). Without going into details here, it is Monaldus of Koper who best fits the author of the *Summa*. As we have already seen, Peter John Olivi speaks of Monaldus as deceased in 1285, before the deaths of all other Monaldi; he also says Monaldus was a provincial minister of Friars Minor, which other Monaldi were not.<sup>19</sup> The earliest source connecting Monaldus to Koper is from the 14<sup>th</sup> century: Bartholomew of Pisa († 1401) explicitly stated that the author of the *Summa* is buried in Koper.<sup>20</sup> This does not necessarily mean he was a native of Koper; however, in the absence of other evidence, it is best to presume that he was.

Not much can be added to these few biographical data points without speculating. However, it would be worthwhile addressing the question of Monaldus's education. Since *magister scholarum* is attested in Koper in 1186, he could have attained primary education there.<sup>21</sup> It is obvious from his work that he had extensive legal education, and since the universities of northern Italy were already active in his youth, we assume he also studied at a university. There has been some question as to whether Monaldus joined the Friars Minor first and was sent to study by the Order or became a Friar Minor while already studying.<sup>22</sup> We would argue that the latter is perhaps more likely. We lack definite proof that monasteries of Friars Minor were already established in Istria when Monaldus was an adolescent; on the other hand, multiple sources mention that mendicant orders preached to students in northern Italian cities and converted them so to speak *en masse*.<sup>23</sup> The chronicler Archdeacon Thomas of Split mentions that as a student in Bologna in 1222, he listened to a sermon by St Francis himself.<sup>24</sup>

It has generally been presumed that Monaldus studied at Padua, mostly due to its geographical proximity to Istria.<sup>25</sup> We would argue that Bologna cannot be ruled out either. Judging by the fact that the average age of a medieval university student was about 20 years,<sup>26</sup> Monaldus probably began studying in the 1230s, which was a turbulent time for universities of the region. Conflicts arose between the university of Bologna and the city commune, which was trying to bind the university to itself.<sup>27</sup> Around 1200, students and professors started leaving Bologna for other

<sup>18</sup> von Schulte, *Geschichte der Quellen*, p. 417.

<sup>19</sup> Jenko Kovačič, "Opombe."

<sup>20</sup> Decarli, "Saggio di bibliografia," pp. 131–133.

<sup>21</sup> Kandler, *Codice diplomatico istriano I*, 24 October 1186.

<sup>22</sup> Jenko Kovačič, "Opombe," p. 192.

<sup>23</sup> Rashdall, *Universities of Europe II*, p. 11, fn. 1; p. 13, fn. 1.

<sup>24</sup> Škunca, *Povijesni pregled*, pp. 16–18.

<sup>25</sup> Jenko Kovačič, "Opombe," p. 192.

<sup>26</sup> Grendler, *Universities of Italian Renaissance*, p. 4.

<sup>27</sup> On origins of the university of Padua see Rashdall, *Universities of Europe I*, pp. 172–173, and Rashdall, *Universities of Europe II*, pp. 10–14.

cities.<sup>28</sup> However, early universities were not homogenous institutions: individual groups were the ones that moved, not entire bodies of students and professors. It is conventionally believed that the university of Bologna moved to Padua in 1222 (as is noted in the official chronicle of Padua). However, this relocation could not have been total since the university of Bologna continued to function. Moreover, in 1228, the university of Padua already reached an agreement with the city of Vercelli to relocate there for eight years: again, evidently, not all students and professors followed this agreement. In the time of the Ezzelini (1237–1260), university of Padua seems to have temporarily ceased to function altogether. All this to say that the university of Padua was not yet well-established in this period and that it is at least equally likely, if not more likely, that Monaldus studied at Bologna.

It is tempting to connect Monaldus to St Anthony of Padua (1195–1231), who was very active in the period in which Monaldus must have studied. However, St Anthony founded his school in Bologna, not Padua, and anyway could not have lectured much himself, considering he traveled often. St Anthony is named after Padua only because he spent the last years of his life there – it is not attested that he lectured in Padua.<sup>29</sup> If we would like to connect Monaldus to the school of St Anthony, which is not unreasonable, we would again have to connect him to Bologna, not Padua.

A topic that has remained underdiscussed is the actual contents of the *Summa*. So far, individual aspects have mostly been discussed within comprehensive monographies on wider historical topics, but mostly in passing and on a surface level. Von Schulte in his exhaustive overview of sources for medieval canon law discusses Monaldus, but misidentifies him as the martyr of Ancona.<sup>30</sup> Noonan mentions Monaldus multiple times in his book on usury, which remains the standard treatment of the topic from the point of view of the history of ideas.<sup>31</sup> However, he places Monaldus among writers active after Thomas Aquinas, which seems out of place considering Monaldus and he were practically contemporaries.<sup>32</sup> Noonan also mistakenly claims that Monaldus did not condemn usury on the basis of natural law:<sup>33</sup> Monaldus does precisely that in paragraph 3.9, where he equates selling at a time when goods are more expensive to selling time itself. He also mentions natural law in paragraphs 3.19 and 3.43. Langholm touches upon ideas of Monaldus in his survey of medieval economic thought; he was also the first one to mention explicitly that the printed edition contains interpolations.<sup>34</sup> Todeschini discusses Monaldus in his analysis of Franciscan economic thought.<sup>35</sup> The only contributi-

<sup>28</sup> Hyde, "Commune, University, and Society," pp. 42–43.

<sup>29</sup> Huber, *St. Anthony of Padua*, pp. 12–13.

<sup>30</sup> von Schulte, *Geschichte der Quellen*, p. 414.

<sup>31</sup> See index in Noonan, *Scholastic Analysis of Usury*, p. 426.

<sup>32</sup> Noonan, *Scholastic Analysis of Usury*, p. 58. He dates the death of Monaldus to 1228 (with a question mark). Presumably, this is a misprint and Noonan actually meant 1288, which means he misidentified Monaldus as the martyr of Ancona, who died in 1288.

<sup>33</sup> Noonan, *Scholastic Analysis of Usury*, p. 58.

<sup>34</sup> Langholm, *Economics in the Medieval Schools*, pp. 447–449.

<sup>35</sup> Todeschini, *Ricchezza francescana*, pp. 86–88.

on that focuses on a specific aspect of the *Summa* from the point of view of legal history is the treatment of the entry on pledges by Žepič.<sup>36</sup>

### The *Summa* and its sources

The High Middle Ages are conventionally seen as a renaissance of legal studies. The *Corpus Iuris Civilis*, the most important corpus of Roman law dating from the reign of Emperor Justinian, was by then well known and studied in Italy. The law of the Church was yet to be organized to a comparable degree.<sup>37</sup> Perhaps the first substantial step in this long process was the *Decretum* of Gratian (compiled in the 1140s); the second crucial step was the collection generally known as *Liber extra* (1234) compiled by St Raymond of Penyafort. This development can be seen as a response to societal and economic changes: new times called for new norms. It is Wickham's thesis that the bulk of the economic shift towards commercialization in northern Italy is to be dated to no earlier than the 13<sup>th</sup> century;<sup>38</sup> if this thesis holds, it would place the work of St Raymond as well as Monaldus right in the period of the most intensive economic shift of medieval Europe.

The *Summa* of Monaldus is a compilation, as the author states explicitly in the prologue:

*Opiniones itaque antiquorum doctorum et etiam aliquorum modernorum humiliter prosecutus, quamvis plura diversimode sint ab ipsis notata, quae inter se varietatem ostendere videantur, non tamen ausus sum scripta tantorum virorum praesumptuose respuere, sed ea, licet diversa, circa unam et eandem materiam in praesenti opusculo studiose conscribens duxi hoc discretis lectoribus relinquendum, ut illam opinionem accipiant, quae ipsis videtur esse magis consona rationi.*

"I therefore humbly followed the opinions of old teachers as well as some modern ones, although they wrote some things differently, so that they seem to exhibit variety. I still did not dare to presumptuously reject the writings of such men. Instead, in this trifling work, I diligently collected them around the same subject, even though they may be different. I believed it must be left to individual readers to accept the opinion which to them seems more harmonious with reason."

Who were the teachers Monaldus humbly followed? The citations he provides in his text mostly refer to passages of *Corpus Iuris Civilis*, *Decretum* of Gratian or *Liber Extra*. However, Monaldus most likely did not work with these collections in their original form, at least not much. The text of his *Summa* seems to mostly stem from secondary legal literature.

His main source was without a doubt *Summa casuum conscientiae* by the aforementioned Raymond. At least as far as *De usura* is concerned, Raymond's text was the framework upon which Monaldus based his own: we can estimate

<sup>36</sup> Žepič, "Monald Koprski."

<sup>37</sup> For an overview of canon law in this period, see Hartmann and Pennington, *History*.

<sup>38</sup> Wickham, *Donkey and the Boat*, 465–620 (the chapter on northern Italy), especially 612–620 (conclusions of the chapter).



that about a third of *De usura* is transferred directly from the corresponding entry in Raymund.<sup>39</sup> Monaldus also used the standard gloss to the *Summa* of Raymond, authored by William of Rennes (Guillelmus Redonensis).<sup>40</sup> He included it more or less in its entirety (see below, chapter *Integration of Raymond's Summa and William's gloss*).<sup>41</sup> Text from William's gloss constitutes approximately another third of *De usura*. Another identifiable source is *Summa super rubricis decretalium* by Godfrey of Trani († 1245).<sup>42</sup> About five paragraphs of *De usura* can be attributed to Godfrey, and explicit attribution to Godfrey is given towards the end of the text.

Less clear is the relationship of the *Summa* of Monaldus to the *Summa aurea* (1210–1220) of William of Auxerre (1160–1229).<sup>43</sup> It is certain that Monaldus was acquainted with his ideas and included them in his *Summa*. However, unlike his other sources, he mostly did not transfer the text of William's *Summa* word for word. Passages of Monaldus referring to William's ideas seem to be very condensed summaries of the original text. The reason for this decision could be the highly formalized structure of William's *Summa*, which is sectioned into questions, arguments and counterarguments, in line with the classic structure of scholastic *quaestiones*. The other sources Monaldus used are less interested in laying out the argument in this way, and it is possible that Monaldus felt the need to adapt William's text to a greater degree so that it would fit in with his other sources. Another possible explanation could be that Monaldus did not use William's text in its original form but rather a derivative work not yet identified.

It has been argued that Monaldus also drew upon the *Summa aurea* of Henry Hostiensis († 1271):<sup>44</sup> Noonan went as far as saying that Monaldus usually followed him.<sup>45</sup> However, there is nothing in the text suggesting Monaldus used the *Summa* of Hostiensis. Similarities can all be explained by common sources, i.e. Raymond, William of Rennes and Godfrey. The explicit citation of Hostiensis in the printed edition of Monaldus from 1516<sup>46</sup> (in between paragraphs 5.9 and 5.10 of the critical text) is an interpolation absent in the oldest manuscripts. It probably found its way into the text via a gloss, either accidentally or even intentionally; after all, in the prologue, Monaldus himself invited the reader to improve his text.

An interesting detail can be found in the edition of Hostiensis printed in Venice in 1586. It includes a gloss that appears to be identical to individual passages of Monaldus – the very ones we presume to be the original work of Monaldus.<sup>47</sup>

<sup>39</sup> Based on a rudimentary counting of the lines in our critical text.

<sup>40</sup> On William of Rennes see von Schulte, *Geschichte der Quellen*, pp. 413–414.

<sup>41</sup> For the text of Raymond's *Summa* along with William's gloss, we consulted the 14<sup>th</sup> century manuscript Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139.

<sup>42</sup> Early print edition: Godfrey of Trani, *Summa perutilis*.

<sup>43</sup> On William of Auxerre, see Noonan, *Scholastic Analysis of Usury*, pp. 42–44. Early print edition of his work: William of Auxerre, *Aurea doctoris acutissimi*.

<sup>44</sup> Early print edition: Hostiensis, *Henrici de Segusio*.

<sup>45</sup> Noonan, *Scholastic Analysis of Usury*, p. 112, fn. 61.

<sup>46</sup> Monaldus, *Summa perutilis*, f. 292r.

<sup>47</sup> Hostiensis, *Henrici de Segusio*, p. 1612, fn. a; p. 1614, fn. c.; p. 1616, fn. d; p. 1624, fn. c.; p. 1630, fn. a. (continued on p. 1632).

However, on the title page of the edition, these glosses are attributed not to Monaldus, but to a certain *Martinus Abbas*,<sup>48</sup> supposedly a contemporary of the jurists Azo and Accursius (so 11<sup>th</sup>–12<sup>th</sup> centuries). As far as we know, "Martin the Abbot" is not attested elsewhere. He is probably to be explained as a phantom canonist who came about by misinterpretation of a manuscript of the *Summa* of Monaldus: for in the manuscripts, the name "Monaldus", which appears in the prologue, is not written out in full but abbreviated as *M*. A medieval or early modern reader of such a manuscript could be forgiven for presuming the name of the author to be Martinus, a name much more common than Monaldus.

## Composition

### Improvements of structure

The *Summa* of Monaldus is the first legal *summa* to be arranged alphabetically and one of very early such works in general. Monaldus himself explicitly mentions alphabetical arrangement twice in the prologue (*sub singulis litteris alphabeti*). He was also aware of the novelty of this structure: "Let no one be wonder if the way of treatment is different in this trifling work than in works by others." (*non ergo miretur aliquis, si modus agendi diversus est in hoc opusculo ab operibus aliorum*). Alphabetization seems to have been a wider tendency in Monaldus's time since alphabetized collections of exempla for sermons also appear in the same period.<sup>49</sup> In previous canonist works, topics were arranged in a specific but opaque sequence: transgressions against God, transgressions against neighbor, irregularities in religious life and then marriage.<sup>50</sup> For example, Godfrey and Raymond state in the preface of their treatment of usury that usury is placed immediately after theft (*De furtis*) simply because "usury differs little or nothing from theft" (*usura parum vel nihil interest ... inter furtum et rapinam*). Monaldus omits this remark because he followed the alphabet. It is primarily because of the alphabetical order that we can consider the *Summa* of Monaldus a proper encyclopedia.

Separation of content into discrete entries was nothing new and can already be observed in the *Summa* of Raymond. What Monaldus seems to have contributed is the further division into subsections, which are introduced by rubricated titles. While Raymond did not divide the entry on usury into subsections, he did introduce it by listing the topics he would treat. Monaldus seems to have used these announcements to divide the text into actual subsections, turning what was only an introductory note in Raymond into the formal structure of the text. The entire *Summa* probably has about 900 subsections.<sup>51</sup>

<sup>48</sup> It is unclear whether *Abbas* is meant to signify the function of an abbot or a proper surname.

<sup>49</sup> Grison, "Note in margin," p. 342.

<sup>50</sup> Grison, "Note in margin," p. 341.

<sup>51</sup> Judging by Golob, "Monaldova pravna enciklopedija," p. 39, who counted 891 initials introducing new sections throughout the manuscript in Narodna in univerzitetna knjižnica.



The entry *De usura* in the *Summa* of Monaldus is thus divided into six subsections. While the manuscripts are not in total agreement when it comes to their titles, the division of the text itself is unanimous. In our critical edition, they are as follows:

- 1: "What is usury and what is it named after" (*De usura quid sit et unde dicatur*)
- 2: "How many kinds of usury there are" (*Quot sunt species usurae*)
- 3: "In which cases is usury allowed, and in which is it prohibited" (*In quibus casibus usurae permittantur vel prohibentur*) (by far the longest subsection)
- 4: "How usurers and their heirs are to be obliged to make restitution" (*Qualiter usurarii et heredes eorum ad restitutionem compelluntur*)
- 5: "On usury of pledges" (*De usura pignorum*)
- 6: "Some cases in which, according to some, one can give money and is allowed to make profit from it" (*Quidam casus, in quibus secundum quosdam potest quis dare pecuniam suam et licite inde recipere lucrum*)

Most of the fifth subsection, *De usura pignorum*, does not actually deal with usury of pledges. The topic is only addressed in the first three paragraphs, after which follow some sort of *miscellanea*, a sequence of casuistic paragraphs discussing a variety of potential cases of usury. This *miscellanea* is not formally introduced as a subsection but is obviously separate. It is some sort of an afterthought to the central themes presented previously, adding content that does not fit into any of the titled subsections.

The text is further divided into paragraphs, which are introduced by a rubricated symbol, as is the case in the sources Monaldus consulted. However, Monaldus introduced an additional marker for opening of a new paragraph, the word *item* (»also«), which by then was widely used in such contexts, but not in material Monaldus worked with. There was a good reason for the double marking. It could easily happen that the manuscript rubricator omitted the symbol by accident, potentially making the structure of the text less clear.

This "itemization" required a further adjustment of the text, namely the elimination of the word *item* in all other contexts except the beginnings of paragraphs, so as to avoid any confusion. We can observe this by comparing Monaldus 5.10 with his source for this passage, William's gloss ad *collegium*.<sup>52</sup> At the beginning of this passage, four types of persons connected to a usurer are listed. William introduces each of these four types with the word *item*. On the other hand, Monaldus only uses *item* for the first type, which appears at the beginning of the paragraph, while introducing the other three types with *similiter* instead of *item*. In the entire entry on usury, Monaldus leaves the word *item* in the middle of a paragraph only a single time, when it appears in a direct quotation (1.2).

<sup>52</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 164r.

## Integration of Raymond's *Summa* and William's gloss

The core of *De usura* is formed by a synthesis of the corresponding entry of Raymond's *Summa* (also titled *De usura*) and the accompanying gloss of William of Rennes. Most of the time, Monaldus transferred the text linearly, word for word along with the original citations. As already mentioned, Raymond and William represent about a third of Monaldus's text each. Deviations from this core are rare.

To achieve an integrated text, Monaldus had to insert William's gloss into Raymond's text. It was much more practical for the reader not to have to constantly shift from the text to the margin and back again. In this "emancipation" of William's gloss, Monaldus usually placed shorter glosses immediately after the passage of Raymond they commented on, while placing the longer ones after the end of Raymond's paragraph as new, independent paragraphs.

This integration was not simply a matter of copying the passages in sequence – it was a fairly complicated intellectual endeavor. It must have required substantial planning in advance. Since Raymond and William do not always agree, it also required reconciling the two sources, revealing Monaldus's legal opinions.

Let us provide concrete examples. Paragraph 4.42 addresses the practice of purchasing at a lower price in the time of harvest and selling at a higher price later on. Raymond simply condemns this practice as a mortal sin. However, in the gloss ad *emunt*, William of Rennes writes: "Master does not distinguish whether this is [made] out of greed or not, but his opinion is too harsh if understood without distinction." (*Non distinguit magister, utrum ex cupiditate necne, sed nimis dura est eius sententia, si indistincte intelligatur.*)<sup>53</sup> Monaldus did not include this nuanced gloss but obviously agreed with it. He modified Raymond's text in accordance with the gloss by simply inserting "out of greed" (*ex cupiditate*) before the verb "they buy" (*emunt*), thus overriding Raymond's harsh condemnation.

A similar edit can be observed in paragraph 3.42. The original Raymond's text condemned the exchange of older produce for newer one as usury. William in the gloss ad *cuperent novam* again mitigates this condemnation:

*Istos non audeo condemnare, si ad hoc mutuent, ut proximo subveniant, dummodo non auferant ei libertatem liberandi se interim solvendo veterem, vel si probabiliter dubitetur, utrum plus vel minus valitura sit tempore solutionis. Alias verum est, quod dicit magister.*<sup>54</sup>

"I do not venture to condemn those who lend in order to help their neighbor, as long as they do not take from him the freedom to free himself by paying the old harvest; or if there is legitimate doubt as to whether the thing will be worth more or less than at the time of payment. Otherwise, what master says is true."

In this case too, Monaldus deviates from Raymond's strictness and joins William's opinion. He adds two exceptions provided by Godfrey: such an exchange

<sup>53</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 160v.

<sup>54</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 161r.

is allowed if the harvest would have gone bad otherwise or if it is done as a favor. Afterwards (from *dummodo* to *solutionis*) Monaldus follows William of Rennes word for word – however, he leaves out the *non audeo* and does not in any way indicate that this is only William’s opinion. He also omits the last sentence of William which states that “master” is otherwise right.

Paragraph 4.9 underwent a similar mitigation. It was Raymond’s opinion that if a usurer buys a thing with usurious money and then sells it to a third party, the third party is bound to retribute it. William of Rennes in his gloss ad *restituere teneatur* says this is only the case if the third party bought the thing with the intention to profit and also knew that it was originally obtained with usurious money.<sup>55</sup> Monaldus incorporates the gloss as a fact, not just an alternative opinion by William.

There are other cases where Monaldus did find it necessary to preserve nuance and difference of opinion (e.g. 4.8 and 5.16, which will be discussed later on). But the editorial decisions where Monaldus eliminates one opinion in favor of the other are particularly interesting because they reveal Monaldus’s opinions on usury. It seems that when it came to condemning usury, Monaldus, just like William of Rennes, tended to err on the side of leniency.

As far as technical aspects go, we can conclude that Monaldus integrated the two texts successfully. Only one major mistake appears. The text in paragraph 3.39 shows he failed to distinguish the beginning of William’s gloss ad *enormiter* from the end of the previous one, ad *quod dixi*, resulting in a jumbled paragraph making no contextual sense. Such a mistake could arise quite easily. In medieval manuscripts, the glosses on the margin were usually written one after another and distinguished only by the rubrics applied to the initial word of each gloss.<sup>56</sup> Most likely, the rubricator of the manuscript Monaldus was using forgot to make a rubric at *enormiter* and Monaldus consequently took it as part of the previous gloss.

Another passage that seems out of place is paragraph 3.20, originally William’s gloss ad *Qui emunt*.<sup>57</sup> The corresponding Raymond’s passage appears much later in Monaldus, only in paragraph 3.31. The reason for this placement is unclear since 3.20 seems completely out of context there.

### Original contributions of Monaldus

In *De usura*, there are some passages for which no source can be identified. With the current state of knowledge, we can presume them to be Monaldus’s original contributions. However, it might yet come to light that these too are transferred from other sources.

At the beginning of *De usura*, where usury is defined, Monaldus puts Raymond’s definition first (1.1): usury is a profit from a loan which is owed or exacted by contract. (*ex mutuo lucrum pacto debitum vel exactum*). Immediately afterwards (1.2), he formulates his own, somewhat expanded definition:

<sup>55</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 162r.

<sup>56</sup> Cf. Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 160v.

<sup>57</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 159v.

*Item usura est, quicquid sorti accederet ex intentione corrupta a parte creditoris, qui non mutuasset principaliter nisi propter spem lucri.*

“Also. Usury is anything that is added to the principal out of corrupted intentions on the part of the creditor, who would not have given a loan in the first place were it not for the expectation of profit.”

Monaldus seems to agree in this definition with Godfrey of Trani, except that Godfrey expressed it less concisely:

*Usura est quicquid sorti accedit (ut xiiii, q. iiii, Plerique). In hac descriptione addo intentione praecedente vel pacto. Sola enim spe vel expectatione vitium contrahitur usurarum (ut infra eo. c. i et c. Consuluit xiiii, q. iii, Si fenerarius). Quod intelligo verum esse, cum causa mutuandi principaliter ponitur in spe vel expectatione lucri sive emolumenti.*<sup>58</sup>

“Usury is whatever is added to the principal [citation]. To this description I add ‘by preceding intention or contract.’ For the fault of usury is committed with hope or expectation itself [citation]. I believe this to be true when the reason for giving a loan is primarily placed in hope for or expectation of profit or gain.”

It is apparent from the definition Monaldus gives that he considered the intention of the creditor a prerequisite for usury, just as some other authors did. Monaldus upholds this definition consistently throughout *De usura*. In the same paragraph (1.2), Monaldus elaborates based on his definition that if a creditor receives more than the principal, he is only bound to make restitution if corrupt intentions were involved on his part.

Monaldus’s classification of types of usury also seems to be his own (2.2–5). Indirect and direct usury was already distinguished by William of Auxerre: however, Monaldus takes this classification and elaborates it further. He divides direct usury into usury on the principal (*usura sortis*) and usury on usury (*usura usurarum*, i.e. compound interest). Within indirect usury, he distinguishes usury by agreement (*cum pacto*) and usury without agreement (*sine pacto*).

In paragraph 2.4, “usury without contract” is divided into two types. In the first type, the creditor makes it clear to the debtor that he will not make an agreement with him but expects the debtor to give him whatever amount he himself wishes. In the second type, nothing is said explicitly, but the creditor gave the loan with the primary intention of receiving usury.

In paragraph 2.5, Monaldus divides “usury by contract” (*usura conventionis*), which here is best taken as a synonym for *usura cum pacto*. He distinguishes three types: the one where the principal and the profit are stipulated in advance; the one where the principal is stipulated in advance while the profit depends on success; and the one where the profit is stipulated in advance while the principal is risked.

<sup>58</sup> Godfrey of Trani, *Summa perutilis*, ff. 218v–219r.

The list of cases in which usury is permitted (3.1–11) also seems to be constructed by Monaldus. It is some kind of compromise between the seven cases listed by Godfrey and the ones listed by Raymond without numeration. In the first two cases (benefice and damages for the guarantor), where Godfrey and Raymond match, Monaldus follows them as well. He places dowry third, like Raymond but unlike Godfrey, who placed it seventh. The fourth is damages in case of delay in *bona fide* contracts, where Monaldus combines Godfrey's and Raymond's texts. The fifth case is the lease contract, as is at Godfrey. The sixth is uncertainty, which in Raymond is placed fifth: for uncertainty, Monaldus uses Raymond's text (since Godfrey only named it without elaborating), but includes Godfrey's term *incertitudo* alongside Raymond's *dubium*. The seventh and last case is canon punishment, which in Godfrey is placed fourth.

It is especially interesting that Monaldus adds a mnemonic verse for these seven cases (3.12): *poena, fides, dubium, mora, dos, violentia, donum*. The verse, a hexameter, does not seem to appear elsewhere and can be attributed to Monaldus. It speaks to Monaldus's significant level of education that he was able to write correct Latin verse.

Monaldus also seems to wish to penalize contumacy (*contumacia*), i.e. refusal to attend court appointments. Monaldus adds the circumstance of contumacy into two passages where his sources did not mention it: as a legitimate reason for taking interest (alongside damages and delay) in paragraph 3.45 and as a reason to increase judicial penalty for a usurer in paragraph 4.2.

To list other passages which seem to be Monaldus's own:

- 3.10: if the debtor asks the creditor for an extension and gives him a gift, this is not usury so long as the creditor grants an extension primarily due to God or due to friendship and only secondarily due to self-interest.

- 3.14: those who lend in the name of others are bound to make restitution if they lend under a general mandate of the owner. However, if the owner specifically orders them to lend to a certain individual, they are not bound. The two following paragraphs (3.15–16) also deal with the same topic, but stem from Raymond and William of Rennes. Monaldus seemingly did not find them sufficient and added his own introduction.

- 3.17: at the end of the paragraph on lender's intentions, Monaldus adds his own note that the lender may expect profit from the loan secondarily, so long as he lends primarily due to God or due to friendship.

- 3.23: at the end of paragraph, Monaldus adds that it is allowed to exact penalties from the debtor if their intention is not fraudulent, for it is in public interest that agreements are kept (*publicae interest pacta servari*). Also worth noting is that in this paragraph, Monaldus greatly condenses Raymond's definitions of different types of penalties.

- 3.40: the paragraph mostly uses the text of Raymond and William of Rennes. It states that the buyer is bound to pay the difference to a fair price if he achieves a lower price by misleading the seller. Monaldus makes a small, but interesting

adjustment: he adds “especially a simple person” (*maxime simplicem*). Monaldus therefore held that simple people required special legal protection in this case. The use of the term *simplex* is especially interesting because Monaldus names it in the prologue as the audience his *Summa* is especially geared towards.

- 3.42: at end of paragraph, Monaldus adds that, as far as God is concerned, a usurer becomes a usurer by expectation itself (*sola spes*), citing *Liber extra*. If this is indeed an addition by Monaldus and not an interpolation (which is possible), it would be an example of Monaldus working with the original collections of law.

- 4.5: a paragraph on restitution made to absent debtors. The placement of this paragraph here is unusual since the same topic is later addressed on the basis of Raymond and William of Rennes (5.15).

- 5.19: a paragraph on loans given in exchange for receiving a loan in the future.

- 5.20: a paragraph on lending money received by a usurious loan.

- 5.21: a paragraph on the use of a pledged horse.

### Subsection *Quidam casus* and the question of interpolation

The sixth subsection, *Quidam casus*, gives some examples of partnership contracts in which interest is permitted. It does not seem to stem from earlier canonist writings, but some kind of template was most likely used (perhaps actual contracts). Its inclusion is quite an innovation. Todeschini in his work *Ricchezza Francescana* invokes precisely this subsection of *De usura*.<sup>59</sup> He does so while saying that Monaldus was “the first Franciscan economist” and the first author to discuss business dealings from the perspective of ethics. Preceding authors avoided this topic altogether as inherently suspicious. In discussing the world of business from an objective point of view, Monaldus implicitly granted it legitimacy.

The problem with the subsection *Quidam casus* is that it may be an interpolation, albeit a very early one. This is suggested by the following observations:

1. While *Quidam casus* is a regular part of text in many manuscripts, including the earliest explicitly dated one,<sup>60</sup> it is either absent or was added subsequently in many others. In at least two manuscripts, it was added by a later hand.<sup>61</sup> Before the beginning of the subsection in Biblioteca Nazionale (Naples), VII F3, there is a note on the margin stating *hic completur Summa* (»here, the *Summa* ends«); *Quidam casus* are still added. In Biblioteca Nazionale (Naples), XIII A23, the text of *Summa* ends with the fifth subsection. What follows is an unrelated text, *Summa de restitutione male ablatorum* by Manfredus of Tortona;<sup>62</sup> only after the *Summa* of

<sup>59</sup> Todeschini, *Ricchezza francescana*, pp. 86–88.

<sup>60</sup> Bibliotheca Apostolica Vaticana, Ott. lat. 630; Biblioteca Medicea Laurenziana (Florence), Plut. 8 sin. 3; Bibliothèque de la Ville (Arras), cod. 91; the earliest dated manuscript of Monaldus's *Summa* is Biblioteca Antoniniana (Padua), ms. 51 scaff. II.

<sup>61</sup> Biblioteca Medicea Laurenziana (Florence), Plut. 10 sin. 6; Berkeley Library (University of California), Robbins 79.

<sup>62</sup> *Incipit* is cited by Mohan, “Initia operum franciscalium,” p. 367; however, he cites *abbatorum* instead of *ablatorum*.



Manfredus follows *Quidam casus*. In the manuscript Medicea Laurenziana plut. 7 sin. 8, *De usura* ends with the fifth subsection, with three short entries following it;<sup>63</sup> afterwards, a second hand entered the epilogue; finally, a third hand entered *Quidam casus* (with the rubric *Societas mercatoris* on the margin) and repeated the epilogue.

2. There is a conspicuous stylistic deviation in *Quidam casus* (6.4): the phrase *ego puto addendum* (“I believe that it must be added” – in this case, that debtor is entitled to deduct the good faith expenses he made in the partnership). Monaldus does not introduce opinions in such a way anywhere else in *De usura*; he generally tends not to attribute opinions to specific individuals, especially not himself. What is more, when such phrases appear in his sources, he reformulates them impersonally – e.g. in 3.31, he changes Raymond’s *idem dico, si nullo ...* into *similiter dicendum est, si nullo ...* Monaldus does use first person verbs, but only for giving concrete examples (e.g. 5.2, *vendo tibi*, “I sell you ...”), never when presenting opinions. He also often uses the word *dico*, but with the adverbial force of “that is” (e.g. 3.9).

3. The prologue of *De usura* announces the first five subsections, but not the sixth one.

4. *Miscellanea* which forms most of the fifth subsection is something we would expect at the end of an entry.

Of course, it is still possible that *Quidam casus* were already included by Monaldus. The irregularities in textual transmission would then have to be explained by the circulation of an early manuscript where the text cut off before *Quidam casus*. Manuscripts copied from this version would then be subsequently corrected.

Even if *Quidam casus* are indeed an interpolation, it does not really take away from Todeschini’s argument. The interpolation would be so early and would have been added into the manuscripts so consistently that for all intents and purposes, it should still be considered an integral part of the *Summa*. However, one needs to be careful when attributing it to Monaldus as an individual, as Evangelisti does in arguing based on *Quidam casus* that Monaldus was personally connected to Bologna.<sup>64</sup>

### Smaller adjustments to text

Some minor adjustments to source texts illustrate Monaldus’s attention to detail as well as his tendency to make the text “user-friendly”. Let us examine the most interesting cases.

When Raymond discusses loans given in one city and repaid in another, a practice which was often used to conceal interest, he gives as examples the cities *Barchia* and *Cepta*.<sup>65</sup> It is not entirely clear which cities he had in mind – the former

<sup>63</sup> Biblioteca Medicea Laurenziana, plut. 7 sin. 8, f. 260r.

<sup>64</sup> Evangelisti, “Monaldo da Capodistria.” He does not mention *Quidam casus* explicitly, but this is the only section of *De usura* where Bologna is mentioned.

<sup>65</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 158v.

might be Barcelona, the latter Ceuta on the African side of the Strait of Gibraltar. This choice seems especially likely because Raymond was a native of Aragon and would presumably know western Mediterranean well. However, it seems that already in the time of Raymond, his contemporaries outside Iberia did not know these cities. This is evidenced by Willam's gloss, which felt it necessary to comment on each of the toponyms by explaining: "This is a place." (*Locus est.*) When Monaldus integrates this gloss (3.27), he simply replaces the two cities with Venice and Acre (*Acon*), which we can presume were well known throughout Europe and the Mediterranean. Acre was at the time still the main Christian harbor in the Holy Land.

In two cases, the placenames mentioned in Monaldus's sources are omitted. In paragraph 3.24, Monaldus replaces William's mention of Roman and Lombard merchants in the gloss *ad singulos menses* with the phrase "some" (*quidam*) merchants.<sup>66</sup> In another passage, Raymond mentions that city states commit usury, too, "especially in Lombardy" (*maxime in Lombardia*);<sup>67</sup> in the corresponding paragraph 5.6, Monaldus omits the mention of Lombardia altogether. These two "anonymizations" are interesting but harder to explain. Monaldus must have found the designation of these placenames either superfluous or irrelevant for his intended audience. He also might have considered it inaccurate, false or unjustified – perhaps economic changes rendered it obsolete.

Monaldus also omits two legal practices mentioned by Raymond. In paragraph 3.31, he deletes *violarium*. William of Rennes already felt the need to explain the word in the corresponding gloss: "This is a vernacular name for certain rents" (*Nomen est vulgare aliquorum proventium*, probably to be emended to *proventuum*), leaving the impression he did not completely understand the word himself.<sup>68</sup> Even today, we were unable to find a clear definition of what *violarium* actually was. DuCange dictionary defines *violarium* as "Spanish rent" (*census Hispanis*) and quotes some examples which are mostly connected to Aragon and date to around the year 1300.<sup>69</sup> Since Raymond was originally from Aragon, he must have known this legal practice, while Monaldus considered it unimportant for the average reader and therefore omitted its mention.

Monaldus also omitted the mention of loans *sub causamento* (Raymond 7.3), evidently due to its obscurity. William of Rennes had issues understanding *causamentum* as well: in his gloss, he says *causamentum* is not a legal term, but a vernacular term »of some land« (*alicuius terrae*), and that it is perhaps connected to *modum camusentium* (?) *aut aliorum, qui mutuunt amore garae* (*gara* perhaps being a unit of measurement for land area).<sup>70</sup> It is hard to make sense even of William's gloss – the text might be corrupted. DuCange dictionary does include *causamentum*, but none of the definitions it provides seem to fit into context here.

<sup>66</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 158r.

<sup>67</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 163v.

<sup>68</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 159r.

<sup>69</sup> DuCange, *Glossarium*, s. v. *violarium*.

<sup>70</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 157r; corresponding gloss on f. 157v.

However, examples listed there are connected to Iberia: one is from a collection of customary law of Barcelona, *Usatici Barcinonenses* (13<sup>th</sup> century), and the second one is a charter by the king of Portugal (also from the 13<sup>th</sup> century).<sup>71</sup> *Causamentum* therefore seems to be another legal concept used only in Iberia. As a native of Aragon, Raymond was acquainted with it; Monaldus, however, considered it irrelevant and simply deleted it in the corresponding section of his *Summa* (3.21).

Another principle Monaldus seems to have followed is the reduction of sources. Monaldus only cites the fundamental ones, namely the collections of Roman and canon law. When it comes to canonists preceding himself, he mostly cites them as “some” (*aliqui*). The intricacies of contemporary canonist discourse were apparently not something the reader needed to know. Paragraph 4.8 is an example of this. Raymond says a usurious cleric is not allowed to make restitution using Church property, only his personal property. William’s glosses ad *de rebus* and ad *sed de suis* disagree: “Master seems to suggest ... which I do not believe” (*vide-tur magister innuere ... quod ego non credo*). He goes on to say that if a usurious cleric has no personal property, he can in fact make restitution with the income of the Church property.<sup>72</sup> Monaldus combines the two glosses into an independent paragraph without attributing them to William; he introduces it simply with “some say” (*dicunt quidam*).

Another such example is paragraph 5.16. It deals with the question of whether the usurer is bound to restitute not only usurious money, but income he made from it as well. Raymond already quotes two opposing opinions, one holding that the usurer is bound and the other that he is not. William’s gloss ad *quod tenetur* explains the former opinion was held by Alanus, but is too harsh.<sup>73</sup> Monaldus acknowledges this gloss by simply stating: “This opinion is too harsh, according to some.” (*Hoc est dura sententia secundum quosdam*.)

There are some other small changes to texts which are harder to explain. For example, in paragraph 3.6, Monaldus switches the order of two cases in which taking interest is allowed. In paragraph 3.20, he adds at the end that it is usurious not to deduct yields of the pledge from the principal, which seems out of context in a paragraph on sales.

## Intentions

Now that we have addressed the more “technical” aspects of the *Summa*, we can better illustrate the intentions of Monaldus and evaluate his work accordingly. His choice of genre itself is already telling. *Summa* (Latin for “sum”, “the whole”) was a scholastic genre of didactical works, mostly dating to 12–14<sup>th</sup> centuries, the goal of which was to collect and systematize the totality of knowledge for a certain field, e.g. philosophy, theology, logic, rhetorics, law.<sup>74</sup> Approaches their authors

<sup>71</sup> DuCange, *Glossarium*, s. v. *causa* 4.

<sup>72</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, ff. 161v–162r.

<sup>73</sup> Badische Landesbibliothek (Karlsruhe), Cod. Aug. perg. 139, f. 165r.

<sup>74</sup> Definition by *Lexikon für Theologie und Kirche*, s. v.

used were different: some preferred accumulating as much information as possible, others favored conciseness, and others still clarity and structure. *Summae* were often, but not always, also titled *summa*.

The *Summa* of Monaldus is conventionally classified into the subgenre of *summae confessorum*, handbooks of church law and theology intended for use by priests in confessions.<sup>75</sup> However, the concept of *summae confessorum* might be due for revision. The contents of the so-called *summae confessorum* often do not match what we would expect in a manual for confessors. The *Summa* of Monaldus, for instance, includes many entries on topics that could not have been essential or useful for practical everyday work of an average confessor, e.g. the entry on elections of the pope and the emperor (*De electione*) and the one on university professors (*De magistro*). On the other hand, the entry on penance (*De paenitentia*) is six folios long, which is not extremely short relative to other entries, but is somewhat brief for a topic that would have been of fundamental importance to a confessor. It is true that in the prologue, penance is mentioned among other motivations for writing the *Summa* (*circa iudicium et consilium animarum in foro paenitentiae*); however, this might simply be a literary convention. It seems that Monaldus had a broader audience in mind. Shaw already made a similar observation regarding Raymond's *Summa*, noting it is more a handbook of canon law than a confessor's manual.<sup>76</sup>

It seems that for Monaldus, counteracting ignorance in general was a far more prominent goal than aiding confessors. The incipit of the *Summa* itself already addresses the topic of ignorance: *Quoniam ignorans ignorabitur* ("But if anyone ignores this, they will themselves be ignored."). The words are taken from 1 Cor 14:38, and in their original context refer to ignorance of the fact that what St Paul speaks of are God's commands. In the prologue, Monaldus emphasizes that grave errors are committed due to ignorance of the law. He states his target audience to be people ignorant of law (*habentes iuris ignorantiam*) and *simplices*, "simple people", a word he uses three times in the prologue. It is an interesting, albeit an unanswerable question which people exactly Monaldus meant by this term. Literate people (especially priests) that had no legal education? Perhaps even illiterate laymen who could consult the work with the help of the literate? In any case, aiding the ignorant was a principle Monaldus practically puts to use in the rest of the text. As we have seen, in *De usura*, he enters *simplex* as a category of person requiring special legal protection. In the prologue, Monaldus cites the usage by "simple people" as motivation for alphabetizing the entries (*sub singulis litteris alphabeti ... ut simplices quod quaerunt valeant facilius invenire*). Most other adjustments we have seen in the previous section of this article can be attributed to this aim as well.

<sup>75</sup> For a definition see Grison, "Note in margine," pp. 335–337.

<sup>76</sup> Shaw, "Corporeal and spiritual homicide," p. 287, fn. 25.

### Conclusions and evaluation of the *Summa*

When discussing Monaldus, it is tempting to simply brand him as a compiler and move on. That would not do him justice and would betray a modern bias towards the original, the groundbreaking and the never-before-seen. Being called “derivative” today is virtually a term of abuse. However, in evaluating the *Summa* of Monaldus, especially within its historical context, other aspects are relevant. Even today, what we primarily look for in general surveys of entire fields (e.g. encyclopedias, textbooks, handbooks) is not new and innovative ideas, but rather structure, clarity and usefulness. If we approach *Summa* from this perspective, it emerges in a much better light.

*Corpus iuris civilis* and collections of Church law are monumental, barely navigable masses of excerpts which often contradict each other. Using them required extensive knowledge possessed only by people who studied law, a negligible minority, numerically speaking. The need for entry-level texts was much greater. Monaldus responded to that need and apparently did so exceedingly well: as already mentioned, at least 70 manuscripts of Monaldus’s *Summa* are extant. The publication of Monaldus’s *Summa* also coincides chronologically with a fall in the number of new manuscripts for Raymond’s *Summa*, indicating it replaced the work it was based on.<sup>77</sup>

Both of these facts are a quantitative testament to its success; a qualitative one are positive reactions to Monaldus’s work by later canonists.<sup>78</sup> We already mentioned two of them: Peter John Olivi describes Monaldus as “holy brother” (*frater sanctus*). Bartholomew of Pisa writes: “If one wishes to see *summae* on laws and decretals, brother Monaldus made one in alphabetical order.” (*si homo vult videre summas in Legibus et Decretalibus, frater Monaldus ordine alphabeti fecit unam*). Saint Antonine of Florence († 1459) considered Monaldus “a great canonist and theologian” (*magnus canonista et theologus*). Mariano de Florentia († 1523) called him “the prince of all jurists of his age and also a great theologian” (*omnium iuristarum suae aetatis princeps et etiam magnus theologus*), explicitly mentioning the alphabetical order of the *Summa* (*Summam fecit in Legibus et Decretalibus per ordinem alphabeti*). Two writers from around 1600 even mention the *Summa* with the honorific title “the golden” (*Summa aurea*). We cannot delve any further into the influence of the *Summa* in the centuries after its publication here. The question will have to wait for another time; however, it is just as important as the question of the “genesis” of the text. An overview of the reception of Monaldus will be needed before we can make a full assessment of Monaldus’s impact on the field of canon law.

Most modern scholars evaluate the *Summa* positively, too. Von Schulte calls it “an exceedingly skillful compilation” (*höchst geschickte Compilation*), adding that Monaldus moved away from theological argumentation and gave precedence to the law.<sup>79</sup> He also states that the *Summa* of Monaldus (as well as the *Summa*

<sup>77</sup> Langholm, *Economics in the Medieval Schools*, p. 447.

<sup>78</sup> For these mentions of Monaldus in later canonists, see Decarli, “Saggio di bibliografia.”

<sup>79</sup> von Schulte, *Geschichte der Quellen*, p. 416.

of John of Saxony) surpassed Raymond's *Summa* "in juristic presentation" (*in juristischer Darstellung*).<sup>80</sup> As already mentioned, Todeschini holds Monaldus to be "the first Franciscan economist".<sup>81</sup> Langholm names Monaldus's *Summa* as the first Franciscan handbook for confessors: even if we disagree with the concept of *summae confessorum*, Monaldus's influence on later Franciscan writers is indisputable.<sup>82</sup> Evangelisti writes that unlike Raymond, Monaldus gave precedence to the analytical-experimental approach, explicitly citing *De usura*.<sup>83</sup> Finally, due to Monaldus's interest for the human instead of the theological and due to the instructive force of his text, Monaldus has been deemed a precursor of Humanism.<sup>84</sup>

Even ignoring the opinion of eminent canonists of old and scholars of new, the merits of Monaldus's work are evident. Alphabetizing the entries was an egg of Columbus that allowed Monaldus to write a reference work substantially more navigable than the preceding ones. In structuring such a work, Monaldus had no templates, because he was the first one to do it. He further improved the structure of his text by introducing subsections and itemization. He accomplished all this within a long text, in a time before typesetting and text-editing software.

The motivation of many of Monaldus's edits is to make the text clearer and more concise, in line with his stated goal of helping "the simple". Monaldus successfully integrates William's gloss into Raymond's text it was originally commenting upon, reconciling the differences in opinion. This greatly improves the experience of the reader who does not have to read two texts in parallel. Monaldus keeps explicit citations only for fundamental collections of law while omitting or anonymizing other canonists. He also omits obscure legal practices and placenames which were not common knowledge.

The *Summa* is in no way a blind reproduction of sources devoid of legal thought. Monaldus included and omitted material according to his own views on legal questions. He emphasized the role of intentions when judging usury: it therefore seems that his view of usury was less strict than Raymond's. This might already reflect a general trend of diminishing anti-usury rigor towards the end of the Middle Ages. There are also original contributions. Monaldus twice adds the circumstance of contumacy where his sources did not consider it. He gives special consideration to the "simple". We must therefore reject Grison's conclusion that the *Summa* of Monaldus "lacks any even slightest effort to express personal and original thought".<sup>85</sup> This is only an impression left by reading on the surface. Monaldus evidently did rework his sources according to his opinions, even though he did not outright express these personal opinions as such.

Franciscan humility might play a role in that. In the prologue, Monaldus identifies himself only as *frater M., minimus inter parvos*. This is probably wordplay

<sup>80</sup> von Schulte, *Geschichte der Quellen*, pp. 416–417, 527.

<sup>81</sup> Todeschini, *Ricchezza francescana*, p. 87.

<sup>82</sup> Langholm, *Economics in the Medieval Schools*, p. 448.

<sup>83</sup> Evangelisti, "Monaldo da Capodistria."

<sup>84</sup> Decarli, "Un precursore dell'umanesimo," pp. 89–90, including fn. 42.

<sup>85</sup> Grison, "Note in margine," p. 344.



alluding to him being a Friar Minor (*frater minor*): he omits the *minor* (comparative degree of the adjective) while still hinting at it by using the superlative degree (*minimus*) and the positive degree (*parvus*) of the same adjective. He also speaks of the smallness of his intellect (*parvitas ingenii mei*) and twice calls the *Summa*, in fact a hefty volume which in most manuscripts takes up around 200 folios, a “trifling work” (*opusculum*). He even encourages the reader to emend his errors.

Monaldus inviting the reader to improve the text also shows he had no issue with altering texts. The changes he made to his source material certainly prove as much. Raymond was not only a commentator, he was the author of *Liber extra*, i.e. some of the law he discussed. It is not a coincidence that Raymond is the patron saint of canonists. It was not possible to stray far from such an authority, and Monaldus acknowledged that by taking Raymond as his base source. However, we could argue that Monaldus’s *Summa* already reflects a shift in the relationship towards authoritative texts. Generally, the classical text, be it the Bible, Justinian’s code or the *Summa* of Raymond, was sacrosanct: it was left intact with only individual phrases commented upon in the gloss on the margin. Monaldus’s integration of William’s gloss into the corresponding text itself was a substantial intervention. Monaldus put usefulness and conciseness over following authoritative writers precisely.

On its face, this way of encyclopedic writing may seem strange. But in fact, we can observe it even today in the single most influential encyclopedia of our time – Wikipedia. Changes a single contributor makes to a Wikipedia article do not generally result in an entirely different text. Instead, an individual version of an article reflects many layers of contributions. Original research is in fact discouraged in order to preserve a neutral point of view.

It is mostly in minor touches to the text that one can gleam the writing process behind the *Summa* and the legal thought of Monaldus. To find these edits, textual criticism and detailed comparison with source texts were needed. It was time consuming, and it is probably not feasible for a single scholar to go over the entire canonist production with this method. However, going over a sample of the text word for word is still a much better basis for drawing conclusions than taking the entire *Summa* on its face, especially if one works with the faulty 16<sup>th</sup> century edition. In trying to contribute a detailed analysis, this article hopefully offers some insight into the work of other canonists and medieval authors as well.

In conclusion - even though *Summa* is primarily a compilation, its value should not be underestimated. The *Summa* is a splendid piece of editorial work and scholarly synthesis and a substantial intellectual achievement. Monaldus must have been acquainted with his field and his sources well, for such a work required detailed knowledge and attentive analysis of extensive, unintuitively structured and sometimes contradictory sources. As this analysis has shown, Monaldus did not reproduce his sources uncritically, but selected passages from them thoughtfully, added to them and adjusted, organized and structured them. These qualities of the *Summa* are not called into question neither by his contemporaries nor by modern scholars. In the *Summa* of Monaldus, it was not just law that was brought to the fore, but also the reader.

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## POVZETEK

Oderuštvo v Monaldovi *Summi*: viri, sestava in nameni pravne enciklopedije iz 13. stoletja

Matic Kristan

Pričujoči članek obravnava Monaldovo delo *Summa de iure canonico*, prvo pravno enciklopedijo. Nastala je v 13. stoletju in požela velik uspeh, o čemer pričata veliko število rokopisov (vsaj 70) in pa ugled, ki ga je Monald užival pri kasnejših kanonistih. Ali delo spada v zvrst *summa confessorum*, tj. spovedniških priročnikov, je glede na vsebino vprašljivo.

Viri o samem Monaldu so zelo skopi. Izpričujejo le, da je bil manjši brat, da se je rodil v letih 1210–1220, da je bil leta 1254 provincialni minister manjših bratov in da je umrl najkasneje leta 1285. Da je bil pokopan v Kopru, je izpričano že v 14. stoletju. Gotovo je imel pravniško izobrazbo: do sedaj se ga je večinoma povezovalo z univerzo v Padovi, vendar tudi študija v Bologni ni mogoče izključiti. Najverjetneje je v red manjših bratov vstopil, ko je že študiral.

Članek se osredotoča na geslo o oderuštvu (*De usura*). Analiza temelji na kritični izdaji, ki je izšla leta 2024 v okviru magistrskega dela; edina dosedanja izdaja iz 16. stoletja je namreč preveč pomanjkljiva, da bi bili na njeni podlagi mogoči zanesljivi zaključki. Poleg vseprisotnih slovničnih napak so v tej izdaji problem tudi interpolacije, zaradi katerih se utegne Monaldu kot piscu prisojati seznanjenost z deli, ki jih očitno še ni poznal.

*De usura* se deli na šest podgesel: definicijo obrestovanja, razdelitev obrestovanja, primere dovoljenega in nedovoljenega obrestovanja, povrnitev obresti, oderuštvo z zastavo (pod to geslo spada tudi zbirka posameznih primerov, ki se tematsko ne uvrščajo v nobeno od predhodnih podgesel) in pa primere družbenih pogodb, pri katerih je obrestovanje dovoljeno. Zadnje od teh podgesel je verjetno kasnejši dodatek, saj je v mnogo rokopisov dodano naknadno.

Temelj Monaldovega besedila sta *Summa* Rajmunda Penyafortskega in pripadajoča glosa Viljema iz Rennesa: vsaka od njiju predstavlja približno po eno tretjino Monaldovega besedila. Monald jima večinoma sledi linearno, odkloni in vstavki so razmeroma redki. Po Rajmundovem in Viljemovem besedilu Monald doda še nekaj paragrafov, prevzetih iz *Summe* Godfreja iz Tranija. Ponekod so izražene tudi ideje Viljema iz Auxerra, vendar običajno v zelo zgoščeni obliki. Za ostale dele besedila domnevamo, da so Monaldovi lastni dodatki.

Gesla v Monaldovi *Summi* so razvrščena po abecednem vrstnem redu, kar je bila velika inovacija in je glavni razlog, da jo obravnavamo kot prvo pravno enciklopedijo. Strukturo je izboljšal tudi z razdelitvijo gesel na podgesla in jasnejšo razčlenitev paragrafov z uvodno besedo *item*.

Številne Monaldove prilagoditve besedila težijo k temu, da bi tekst napravile bolj dostopen. Tudi sam v prologu omenja, da želi, da bi njegovo delo služilo »preprostim« (*simplices*). V tem duhu lahko razumemo Monaldovo združitev Rajmundovega teksta in Viljemove glose v enotno besedilo: zaradi tega bralcu ni bilo treba neprestano begati med besedilom in glosa na margini. Monald je prav tako iz besedila pogosto izpustil nasprotujoča si mnenja in obskurnejše pravne koncepte. Omembe manj znanih krajev je nadomestil s splošno znanimi. Citate je v glavnem omejil le na bistvena dela, tj. zbirke rimskega in kanonskega prava, kanoniste pa je citiral manj dosledno.

Monald ni le povzemal mnenj svojih predhodnikov, temveč je med sestavljanjem *Summe* zastopal tudi določena pravna stališča. Pri njegovem usklajevanju nasprotij med Rajmundom in Viljemom iz Rennesa se večinoma postavlja na stran Viljema, ki je imel v nekaterih vidikih na obrestovanje manj stroge poglede. Poleg tega so nekateri deli *De usura* očitno izvorno Monaldovo delo. Pri presojanju oderuštva je posebej poudarjal vlogo namere. Tudi njegovo delitev oderuštva moremo označiti za izvirno. Sedem primerov, v katerih je obrestovanje dovoljeno, je povzel z mnemotehničnim heksametrom. Na dveh mestih vstavil kontumac kot oteževalno okoliščino. Prav tako Monald pri enem od primerov poudari, da mora biti preprost človek deležen posebnega pravnega varstva.

Monald v prologu bralca povabi, naj besedilo izboljša; pa tudi sam ni imel večjih zadržkov pri poseganju v standardna besedila. Monaldove prilagoditve besedil, ki jih je prevzel iz svojih virov, morda nakazujejo drugačen pogled na tekst kot tak. Jasnosti in konciznosti je dajal prednost pred avtoriteto.

Čeprav je Monaldova *Summa* pretežno derivativno delo, je ne gre omalovaževati. Monald ni bil premočrten kompilator. Njegovo delo odraža tako dobro poznavanje obravnavanega področja kot velik občutek za strukturacijo teksta. Ureditev in vsebinska sinteza njegove enciklopedije predstavljata pomemben intelektualni dosežek. Z njegovo *Summo* v ospredje ni stopilo le pravo, temveč tudi bralec.