

WHY WAS JAN HUS BURNED AT THE STAKE DURING THE COUNCIL OF CONSTANCE?

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Abstract

This article examines the portions of the ecclesiastical-inquisitorial trial of the Czech priest Jan Hus which occurred during the Council of Constance in 1414 and 1415. The main question applied to the sources attempts to answer the concern around why Hus was condemned to death. The investigation looks carefully at the extant primary sources from the trial and its immediate aftermath. Since the Hus process was a heresy trial, the place and relevance of medieval canon law on that topic emerges as a central and foundational focus. The article identifies the charges against Hus which culminated at Constance, their context, and their relation to medieval law. The essay summarizes the relevant theological, political, and legal factors which led to the conclusion that issues of power and authority legalistically applied obligated the Latin Church to burn Jan Hus as a contumacious heretic. While morally objectionable and ethically arguable, traditional and prevailing legal mores justified and fully supported the outcome of the Hus trial which resulted in consigning the defendant to the stake. Put succinctly, from a strictly medieval legal point of view Jan Hus was punished appropriately.

Keywords: Jan Hus, Council of Constance, heresy, canon law

Introduction

In 1416, the Hussite priest, Jakoubek ze Stříbra, preached a sermon in the Bethlehem Chapel in Prague wherein he recounted the gripping scene of the last moments in the life of the chapel's former rector, the condemned heretic, Jan Hus.

Then he was handed over to the secular authorities who led him to the place of his execution and death. On the way he shouted that false and twisted testimonies were submitted and that no one should believe that he advocated any heretical article. When he arrived at the place of execution, he knelt down and prayed with a joyful heart and a bright countenance. Then they stripped him down to his shirtsleeves, chained and roped him to a stake and piled wood around him to such a height that barely his head was visible—I omit other details. When the strong flames blazed up, he stopped singing and praying. But his spirit, as we devoutly believe, reached with the flames to heaven, to the company of angels, just as Elijah did.¹

¹The text of the sermon appears in Jaroslav Goll, et al., eds., *Fontes rerum*

Jan Hus has been a controversial and contested figure for six hundred years, and a myriad of interpretations have been given about his thought, his significance, and his memory.² The specific question before us has been asked and answered many times. The Hus trial was political, in one sense a show trial, but an event deeply rooted in medieval European legal history.³ There are two main perspectives. The first comes from the definitive sentence read out in the *Münster unserer lieben Frau* (Cathedral of Our Dear Lady) in Constance on 6 July 1415:

[Jan Hus], a disciple not of Christ but rather of the heresiarch John Wyclif, with temerity dared to oppose [the Council and has taught things which are] . . . erroneous . . . scandalous . . . offensive . . . rash . . . seditious, and . . . notoriously heretical . . . the testimonies of trustworthy and numerous witnesses . . . [indicate that Hus] had taught many evil and dangerous heresies . . . during the course of many years . . . [which have] seduced the Christian people . . . Hus is obstinate and incorrigible . . . the Church of God has nothing more it can do with Jan Hus.⁴

The second point of view presents a stark rejoinder:

Master Jan Hus was wrongly burned. He was killed because he stood for the law of God against the pride, simony, fornication and other sins of the priests. He defended the truth and refused to yield until death. Therefore he was condemned to the fire as a heretic but through it God granted him the martyr's crown. Woe to those who are guilty of innocent blood . . . it is impossible to believe that a righteous church could condemn to death such an innocent man who defended God's truth. Like Susanna they brought false witnesses against him and numerous false articles seeking his death.⁵

bohemicarum, 8 vols. (Prague: Nákladem nadání Františka Palackého, 1873–1932), 8:231–243 (hereafter *FRB*).

²Three studies have emerged as a result of the sixcentenary of Hus's death: Thomas A. Fudge, "Quest of the Historical Hus," *The Hinge: International Theological Dialogue for the Moravian Church* 22.1 (2016): 3–22; idem, "Jan Hus in English Language Historiography, 1863–2013" *Journal of Moravian History* 16.2 (2016): 90–138; and idem, ed., *Jan Hus in History and Legacy, 1415–2015* (Washington, DC: Czechoslovak Society of Arts and Sciences, 2015). See also the special issue of *Kosmas: Czechoslovak and Central European Journal* 28.2 (2015).

³Thomas A. Fudge, "Jan Hus in the Medieval Ecclesiastical Courts," in *Political Trials in Theory and History*, ed. Jens Meierhenrich and Devin O. Pendas (Cambridge: Cambridge University Press, 2017), 113–133.

⁴*FRB*, 8:501–503.

⁵This was drawn from a Czech polemic written against the Council of Constance. Jakoubek ze Strážnice, "Zpráva, jak Sněm konstanský a svátosti večere Kristovy nařídil," Prague, National Library MS XI D 9, fols. 161r–170r. I first looked at this manuscript in 1991. It has subsequently been edited. See Mirek Čejka and Helena Krmíčková, eds., *Dvě staročeská utrakvistická díla Jakoubka ze Strážnice* (Brno: Masarykova univerzita, 2009), 91–108, especially 107. The allusion to Susanna refers to the additions to the book of Daniel in the Greek, but not the Hebrew manuscripts, which are included among Old Testament apocryphal writings.

In the fifth century, Augustine of Hippo said that “one should not assume heresies could be produced by little souls. No one except great men [and women] have been the authors of heresy.”⁶ Why was Jan Hus burned at the stake? Was he a “great” man? The short answer is that Hus was burned because he was a heretic. Medieval canon law subjected convicted heretics to capital punishment. Such punishment routinely was carried out by means of burning at the stake.⁷ During the twelfth and early thirteenth centuries, the term *animadversio debita* (literally “debt of hatred”), signifying “due penalty” turns up with some frequency with reference to punishing heretics. Another explanation is to attribute Hus’s demise to the historic animosity between Germans and Czechs.⁸ A third response puts Hus’s death down to judicial murder at the hands of unscrupulous churchmen who became drunk with power and corruption and turned bloodthirsty.⁹ These short and simplistic answers fail to account for the complexity of heresy accusations, inquisitorial legal procedure, and judicial punishment as represented in the latter Middle Ages. These are the more salient issues. To account for why Hus was burned at Constance requires delineating the main aspects of his life and thought which ecclesiastical authorities found objectionable and ultimately intolerable.

Theological Factors

So why was Jan Hus burned at the stake? Priests and theologians implicated in heresy, understood as *crimen mere ecclesiasticum* or an offense reserved for judgment by the church, generally means that considerations of theology were germane. From a theological point of view, there were six concerns in the Jan Hus affair which yielded drastic consequences for the Prague priest.

⁶Enarr. in “Ps. cxxiv, 5” in CCSL 40, ed. E. Dekkers and J. Fraipont (Turnhout: Brepols, 1956), 1839.

⁷Gregory IX (1231), X 5.7.13, *Excommunicamus*, in *Corpus iuris canonici*, 2 vols., ed. Emil Friedberg (Leipzig: Tauchnitz, 1879–1882), 2:787–789.

⁸For exploring the theme in context, see Alfred Thomas, “Czech-German relations as Reflected in Old Czech Literature,” in *Medieval Frontier Societies*, ed. Robert Bartlett and Angus Mackay (Oxford: Clarendon, 1989), 199–215; Len Scales, *The Shaping of German Identity: Authority and Crisis, 1245–1414* (Cambridge: Cambridge University Press, 2012), 394–419; and František Šmahel, *Idea národa v husitských Čechách* (Prague: Argo, 2000), 22–89.

⁹The following are among those who represent this position: Wilhelm Berger, *Johannes Hus und König Sigismund* (Augsburg: Butsch, 1871), 163–169; Gotthard Viktor Lechler, *Johannes Hus: Ein Lebensbild aus der Vorgeschichte der Reformation* (Halle: Verein für Reformationsgeschichte, 1889), 78; idem, *Jan Hus*, 2nd ed. (Pardubice: Hoblík, 1910), 77–78; Václav Flajšhans, *Mistr Jan řečený Hus z Husince* (Prague: Vílímek, 1901), 460–472; and in his forward to the edition of Hus’s works, *Spisy M., Jana Husi*, 6 vols. (Prague: Jaroslav Bursík, 1903), 2:vi; Jiří Spěváček, *Václav IV. 1361–1419 k předpokladům husitské revoluce* (Prague: Svoboda, 1986), 461; and Peter Hilsch, *Johannes Hus (um 1370–1415): Prediger Gottes und Ketzer* (Regensburg: Pustet, 1999), 281.

First, there was the matter of authority and Hus's insistence that mortal sins disqualified one from exercising legitimate authority.¹⁰ We find evidence of this perspective in Hus's thinking as early as 1409, when one of the parish priests in Prague formally accused Hus of sedition, arguing that he incited people against the priesthood and thereby challenged church authority.¹¹ Justifying his position, Hus promoted the idea that legitimate authority was predicated upon the worthiness of the incumbent. Prague priests filed complaints against Hus with Archbishop Zbyněk in August or September 1408. Jan Protiva, the priest of the parish Church of St. Clement's in Prague, followed suit around the middle of 1409. A year later (July 1410) Zbyněk took formal issue with Hus. This precipitated a virtual paper avalanche: hostile priests in Prague filed further accusations in the autumn of 1410; Michael de Causis brought charges either in March 1411 or March 1412 (there is some dispute about the date);¹² Hus's former colleague, Štěpán Páleč, did likewise on 10 July 1412; De Causis acted again in late 1412; Paris University chancellor, Jean Gerson, issued his own findings and recommendations on 24 September 1414; De Causis added to his earlier dossier late in 1414; at the same time the Council of Constance formalized concerns, Páleč likewise drew up an additional forty-two articles in December 1414; and before the Hus case concluded at Constance there were two final sets of charges issued on 8 June and 18 June 1415.¹³ This amalgam of concern was characterized by Jean Gerson as a result of Hus's "rash, seditious, offensive, pernicious and subversive" ideas. Supporters of Hus disagreed, arguing that loyalty to the truth of God led Hus to Constance and to the stake.¹⁴

Second, Hus's ecclesiology threatened the identity of the medieval church. Hus understood the church according to the predestined and not by its hierarchy of human manifestations of leadership associated with popes and bishops. Moreover, Hus did not consider the papacy essential. If popes were not vital, then the higher clergy might also be unnecessary and the true essence of the body of Christ could theoretically be located entirely separate

¹⁰František, Palacký, ed., *Documenta Mag. Joannis Hus vitam, doctrinam, causam in constantiensi concilio actam et controversias de religione in Bohemia annis 1403–1418 motas illustrantia* (Prague: Tempsky, 1869), 185–188, reflects the accusations advanced by Jean Gerson wherein no fewer than seven of the twenty articles underscore the seriousness of Hus's doctrine.

¹¹Ibid., 164–169.

¹²Ibid., 170–171.

¹³The various allegations, accusations, and formal charges can be found in *ibid.*, 153–155, 164–188, 194–234, 286–315, 448–450, 457–461. The single exception is the July 1410 articles by Zbyněk, which are referred to in *FRB*, 5:571, and Hus, "Knížky proti knězi kuchmistrovci," in *Magistri Iohannis Hus, Opera Omnia*, 27 vols., ed. František Ryšánek, et al. (Prague: Academia; Turnhout: Brepols, 1959–), 4:321 (hereafter *MIHO*).

¹⁴Jakoubek ze Stříbra, "Zpráva, jak Sněm konstanský a svátosti večere Kristovy nařídil," Prague, National Library MS XI D 9, fol. 163r; Čejka and Krmíčková, *Dvě staročeská utrakvistická*, 94.

from the administrative hierarchy of official Christendom.¹⁵ This created alarm. Hus's ecclesiology insisted that membership in the body of Christ was no more a legal right than a matter of choice, but instead was conditioned upon divine election. In the thought of Hus, the church was essentially a spiritual entity. Churchmen, theologians, and canon lawyers involved in the Hus case regarded the church as a legal corporation, represented by pope and council. An ideological collision was unavoidable.

Third, Hus was burned because he advanced a vigorous moral reform agenda and did not hesitate to condemn unworthy clerics.¹⁶ This attracted a great deal of violent opposition. It was a matter of record that Hus's reforms were supported by the archbishop and not considered troublesome until Hus targeted the priesthood.¹⁷ Once this occurred, there was a backlash, which persisted until Hus was sent to the stake. Hus spared no one and did not blunt his attack. He was later characterized as the "razor of vice."¹⁸ He sought to curb sexual license, concubinage, drunkenness, corruption, absenteeism, clerical irregularity, financial improprieties, greed, and the arbitrary uses of ecclesiastical power and authority. Essentially, the full gamut of the seven capital sins manifested in church and society came under Hus's withering reproach. Late in his stay at Constance, Hus denounced the city for its gross immorality, suggesting it would require a full thirty years to clean up the filth.¹⁹ Hus would have ruefully agreed with a tale published by the Italian humanist, Poggio Bracciolini, who reported that an English bishop told the story of a woman in Constance who submitted that her pregnancy was the work of the Council.²⁰

Fourth, he singled out the practice of simony for special criticism, going so far as to condemn simony as heresy.²¹ He was not the first to take this extraordinary step, as we find the term *simoniaca heresis* (the heresy of simony) in the work of Pope Gregory I.²² If Simon Magus, the notorious magician who

¹⁵See especially his treatise on the church (S. Harrison Thomson, ed., *Magistri Johannis Hus Tractatus De Ecclesia* [Boulder: University of Colorado Press, 1956], 119–130).

¹⁶The theme is found throughout the Hus corpus, but see especially his 1414 short treatise "Knížky proti knězi kuchmistroví," in *MIHO*, 4:312–323. There is an analysis of it in Thomas A. Fudge, *The Memory and Motivation of Jan Hus, Medieval Priest and Martyr* (Turnhout: Brepols, 2013), 81–107.

¹⁷František Palacký, ed., *Starší letopisové čeští od r. 1378 do 1527* in *Scriptores rerum bohemicarum*, 3 vols. (Prague: J.S.P., 1829), 3:7. With references to the sources, see Thomas A. Fudge, *Jan Hus: Religious Reform and Social Revolution in Bohemia* (London: I. B. Tauris, 2010), 108–116.

¹⁸Barbatus, in *FRB*, 8:19.

¹⁹Letter of 26 June 1415 in Václav Novotný, ed., *M. Jana Husi Korespondence a dokumenty* (Prague: Nákladem komise pro vydávání pramenů náboženského hnutí českého, 1920), 318.

²⁰Poggio Bracciolini, "Facetiae," in *Opera omnia* (Strasbourg: Knobloch, 1513), fol. 160v.

²¹"O svatokupectví," in *MIHO*, 4:187–270, but see especially ch. 1, 4:192–194.

²²See the work of Jean Leclercq, "Simoniaca heresis" *Studi Gregoriani* 1 (1947):

appears in Acts, was regarded as the arch-heretic by early Christian authors who prostituted the church by attempting to corrupt the faith, then Hus continued to see the *simoniacs* (the followers and practitioners of Simon Magus's ideas) who persisted in the buying and selling of sacred things as a plague in the medieval church.²³ The business of selling God (often at a bargain price, to repeat the aggravation of Pope Gregory VII) persisted as a chronic disciplinary problem, which attracted the attention of Hus and other reform-minded medieval churchmen.²⁴ Technically, the church had condemned the practice of simony in the fifth century, but, in the eleventh century, it constituted a main source of ecclesiastical revenue, creating cognitive dissonance. Hus said simony was a form of leprosy and the worst sin.²⁵ There were wide divergences of opinion on the matter. For example, the twelfth-century canonist, Simon of Bisignano, thought that simony should be punished by death. Some of Hus's contemporaries, namely Jean Gerson, considered simony simply an error or oversight, hardly a capital offense. Fatefully, at Constance, Hus came face-to-face with representatives of the latter position characterized in some sources as an unhappy "gang of simoniacs."²⁶

Fifth, Hus was burned because he was a suspected follower of the Wyclifite heresy.²⁷ By the time of the Council of Constance, John Wyclif (†1384) had been repeatedly condemned, excommunicated, and identified by the church as an heresiarch; his teachings had been formally outlawed; and his books had been reduced to ashes in Prague and in Rome. The two heretics, Hus and Wyclif, were thought to share many common ideas. Though indefensible, Hus was consistently linked to Wyclif's eucharistic doctrine, which was considered among the more dangerous ideas facing the later medieval

523–530, with references to Gregory. Paul de Vooght, "La Simoniaca haeresis selon les auteurs scolastiques" *ETL* 30 (1954): 64–80, delineates the view that simony was not heresy. Dealing with later equations, see Winfried Trusen, "Rechtliche Grundlagen des Häresiebegriffs und des Ketzerverfahrens," in *Ketzerverfolgung im 16. und frühen 17. Jahrhundert*, ed. Silvana Seidel Menchi, Hans R. Guggisberg, and Bernd Moeller, Wolfenbütteler Forschungen 51 (Wiesbaden: Harrassowitz, 1992), 1–20.

²³In his famous treatise, "Against Heresies," Irenaeus asserted that Simon was the father of all heresies (see *Haer.*, 1.23.2; *Irenaei Lugdunensis Episcopi Adversus Haeresus Libri quinque*, ed. Ubaldo Mannucci [Rome: Ex officina typographica Forzani et Socii, 1907], 246–247). See also Alberto Ferreiro, *Simon Magus in Patristic, Medieval and Early Modern Traditions* (Leiden: Brill, 2005), 9–26.

²⁴Gregory VII, "Letter to Bishop Hermann of Metz, 15 March 1081," in *Das Register des Gregorii VII*, 2 vols., ed. Erich Caspar (Berlin: Weidmann, 1955), 2:viii, 21, 544–563.

²⁵Hus used these descriptions in a letter to Johannes Hübner (early 1404). Novotný, *Korespondence a dokumenty*, 11–15. See especially 13 and 14.

²⁶Jakoubek ze Stříbra, "Zpráva, jak Sněm konstanský a svátosti večere Kristovy nařídil," Prague, National Library MS XI D 9, fols. 161r–170r at fol. 169v. Edition in Čejka and Krmíčková, *Dvě staročeská utrakvistická*, 107.

²⁷Though dated, overstated, and flawed, a case arguing for Hus as a follower of Wyclif is Johann Loserth, *Wiclif and Hus*, trans. M. J. Evans (London: Hodder & Stoughton, 1884), 181–291.

church.²⁸ Wyclif believed that transubstantiation was based upon an “error about the makeup of spatiotemporal continua.”²⁹ In sum, Wyclif’s teaching of remanence denied the church’s doctrine of transubstantiation, which was the foundational medieval basis of the Eucharist. Since the twelfth century, the Eucharist had emerged as the central symbol of medieval Christianity. The ritual of the Mass enabled believers to enter the presence of God and allowed the faithful to partake literally of that presence. That conviction was a pillar of the medieval sacramental system. Wyclif was expelled from Oxford and lost the support of his principal patron not when he spoke negatively of the pope, but when he commented critically about the Eucharist. According to Henry Knighton, the Blackfriars Council (1382) in London made fidelity to eucharistic orthodoxy the main issue when dealing with suspected heretics.³⁰ Associating Hus with Wyclif on this matter transmuted the Prague priest from reformer to revolutionary. Jerome of Prague, one of Hus’s colleagues, also suffered condemnation and the stake during the Council of Constance on account of his Wyclifite orientation.³¹

Sixth was the issue of indulgences. The practice was thoroughly politicized in Prague by 1412.³² Properly understood, according to thirteenth-century doctrine, an indulgence was the granting either of complete or partial remission of temporal punishment for sins. These transgressions had already been forgiven, but still required appropriate penance (*poena*) in addition to absolution from the guilt (*culpa*) of sin, which could only be obtained by means of contrition and confession. Penitential acts might include pilgrimage, supporting a crusade, almsgiving, or contributing to the church. If the penitent died before completing the specified penance, then the remainder could be fulfilled in purgatory. The indulgence theoretically offered a means of avoiding purgatory. Indulgences drew on the treasury of merits accumulated by Christ and the saints. The power to grant an indulgence was the sole purview of the pope. Strictly speaking, the indulgence addressed only

²⁸*Iohannis Wyclif, De Eucharistia Tractatus Maior: Accedit Tractatus de Eucharistia et Poenitentia sive De Confessione*, ed. Johann Loserth (London: Wyclif Society, 1892), 1–326.

²⁹Stephen E. Lahey, *John Wyclif* (Oxford: Oxford University Press, 2009), 103, 128–131, based on a reading of ch. 8 of Wyclif’s *De eucharistia*.

³⁰*Chronicon Henrici Knighton*, 2 vols., ed. Joseph Rawson Lumby (Cambridge: Cambridge University Press, 2012), 2:171.

³¹Thomas A. Fudge, *Jerome of Prague and the Foundations of the Hussite Movement* (New York: Oxford University Press, 2016); idem, *Hieronymus von Prag und der Beginn der hussitischen Bewegung* (Münster: Aschendorff, 2017).

³²“De indulgentiis, sive de cruciata papae Joannis XXIII” and “Contra Bullam Papae Joan. XXIII,” in *Historia et monumenta Ioannis Hus atque Hieronymi Pragensis, confessorum Christi*, 2 vols., ed. Matthias Flacius Illyricus (Nürnberg: Montanus & Neuberus, 1558; 2nd ed. 1715), 1:215–237. For the wider context in Bohemia, see Eva Doležalová, Jan Hrdina, František Šmahel, and Zdeněk Uhlíř, “The Reception and Criticism of Indulgences in the Late Medieval Czech Lands,” in *Promissory Notes on the Treasury of Merits: Indulgences in Late Medieval Europe*, ed. R. N. Swanson (Leiden: Brill, 2006), 101–145.

penance, not the forgiveness of sin.³³ Nevertheless, it was popularly understood that indulgences cancelled all of the implications and obligations from guilt and penalty (*a culpa et poena*). This misleading and inaccurate terminology eventually crept into canon law.³⁴ Hus took a strong stand against the abuses of the indulgence, attacked the economic incentives of the practice, and accused religious leaders of permitting the forgiveness of sins, broadly speaking, to be politicized and utilized for material gain. The indulgences controversy became particularly acute during the papal schism. Hus's unbending position became so unpopular that both kings and popes sought sanctions against him.³⁵

These theological controversies resulted in ecclesiastical penalties, precipitated a law suit, and eventually sent Hus into exile. Following these developments, more than six hundred years ago, Hus set out from Bohemia on a trip from which he would not return. He would never again see his native land. He was on a journey to the city of Constance, which proved to be a one-way trip. As a reformer, Hus was committed to seeing the church returned to an earlier state of purity. Reformers always face the perilous task of going against the grain of entrenched tradition, which may be stagnated or corrupted. After all, reform requires an existing condition. It seems prudent to pose the question: how corrupt were the times in which Hus lived? An Italian poet observed that "as man's shameful acts increase, the hatred of truth increases and the kingdom is given over to flattery and falsehood."³⁶ Implicit in the thought of the conciliarist and curial official Dietrich Niem and the canonist Hostiensis is the notion that ecclesiastical unity trumps other more individual concerns. "When the existence of the church is threatened, she is released from the commandments of morality. With unity as the goal, the use of every means is sanctified, even cunning, treachery, violence, prison, death. For all order is for the sake of the community and the individual must be sacrificed to the common good."³⁷ By the fifteenth century, the Western church was riven with conflict, the papal schism had seriously undermined ecclesiastical authority, and heresies appeared to threaten her stability. In the struggle

³³The doctrine of the treasury of merits was especially enumerated by Clement VI in a bull of 27 January 1343 that was later incorporated into canon law as Extrav. comm. 5.9.2 titled *Unigenitus Dei filius* (see Friedberg, *Corpus iuris canonici*, 2:1304–1306).

³⁴*Glossa Ordinaria* to Clem. 5.9.2, *Abusionibus*, in *Corpus juris canonici*, vol. 3 of *Liber Sextus, Constitutiones clementinae, Extravagantes Johannis XXIII, Extravagantes communes* (Romae: in aedibus Populi Romanae, 1582), 304–305.

³⁵On the subject, see Henry Charles Lea, *A History of Auricular Confession and Indulgences in the Latin Church*, 3 vols. (New York: Greenwood, 1968, originally published in 1896), 3:68–71.

³⁶Petrarch, *Liber sine nomine*, mid-fourteenth century; Rebecca Lenoir, ed., *Pétrarque Sans titre: Liber sine nomine* (Grenoble: Jérôme Millon, 2003), 24.

³⁷The spirit of this sentiment has been attributed to Dietrich Niem in his 1411 treatise *De scismate libri tres* and in his 1410 book, *De modis uniendi ac reformandi ecclesiam in concilio universali*. The specific quotation is uncertain, but the idea is also generally reflected by the canon lawyer Hostiensis. I have had advice on this from Edward Peters and Thomas Izbicki.

to overcome challenge and division, while maintaining power and control, the medieval church had to contend also with political factors including corruption. Hus's attempts at reform were swept up into this bellicose vortex.

Political Factors

Why was Hus burned at the stake? Beyond the six foregoing theological reasons, the second major factor of Hus's death may be subsumed broadly as political factors. It may be too simplistic to argue that Hus was burned at Constance as a result of political machinations, but to ignore the less salutary elements in the corridors of power and the frailty of humanity in the kingdom of God would be remiss. Elsewhere I have identified political factors either as the firm commitment to a particular doctrine or a matter of faith or conversely to a form of corruption.³⁸ Both were apparent within the fifteenth-century Latin church. There was a definite commitment to the Nicene doctrine of "one, holy, catholic, and apostolic church" wherein all Christians were expected to maintain the unity of the faith and practice religion as directed by recognized ecclesiastical authorities. At the same time, the church was beset by less salutary considerations, including envy, jealousy, guilt, control, fear, malice, a desire for power, allegiance to tradition, and value rigidity. Some of these characteristics were unavoidably linked to various commitments to "truth." At times, it is possible to regard political corruption as quite separate from the insistence on a positive regard for church authority. "The theologian may indulge the pleasing task of describing Religion as she descended from Heaven, arrayed in her native purity. A melancholier duty is imposed on the historian. He must discover the inevitable mixture of error and corruption which she contracted in a long residence upon earth, among a weak and degenerate race of beings."³⁹ That melancholy duty comes to bear directly, poignantly, and tragically on the Hus matter which the Council of Constance took up in late 1414.

Hus was burned at Constance partly because he was little more than a pawn in the power struggles and larger political agendas of kings and popes. In the early days of the conciliar proceedings, Pope John XXIII and Emperor-elect Sigismund played crucial roles. Scholars of Hussitica traditionally have regarded the two negatively. "Sigismund was cruel and sensual, dishonest and vain, greedy and lecherous, loud and cowardly. . . . His companion John XXIII was lewd and murderous, faithless and a simoniac. He was a good friend to Sigismund in every wicked deed."⁴⁰ This assessment is clearly tendentious, but into the hands of these two men the Hus case passed in the autumn of 1414. Once in Constance, men such as Paris University

³⁸Thomas A. Fudge, "O Cursed Judas: Formal Heresy Accusations against Jan Hus," in *Religion, Power and Resistance from the Eleventh to the Sixteenth Centuries: Playing the Heresy Card*, ed. Thomas M. Izbicki, Karen Bollermann, and Cary J. Nederman (New York: Palgrave-Macmillan, 2014), 55–80.

³⁹Edward Gibbon, *The History of the Decline and Fall of the Roman Empire*, 8 vols., ed., Betty Radice (London: The Folio Society, 1984), 2:93.

⁴⁰Václav Flajšhans, *Mistr Jan řečený Hus z Husince* (Prague: Vílímek, 1901), 248.

Chancellor, Jean Gerson, papal curia attorney, Michael de Causis, and Prague University master, Štěpán Pálež, played critical roles in the legal prosecution of Hus.⁴¹ Each of these men was personally ill-disposed to the defendant.

Theological controversy and politics thrust Hus into the perilous waters between Scylla and Charybdis, where he had to choose loyalty and obedience. Consecrated priest in 1401, Hus was thereafter granted the power to perform religious duties and liturgical actions restricted to the clerical order. During the ordination rite, the candidate was examined and undertook an oath. The examination required an oral statement that the ordinand had not previously been implicated in any of the four capital crimes of sodomy, bestiality, adultery, or in the violation of those in holy orders. The oath was a commitment of obedience and reverence to the bishop in question. When Hus took holy orders in 1401 at the hands of Olbram of Škvorec, Archbishop of Prague, he promised obedience to Olbram as his ordinary. When Olbram was replaced by Zbyněk Zajíc of Hazmburk, the oath of obedience naturally transferred from Olbram to Archbishop Zbyněk. Obedience was to the office, not the incumbent.

Ultimately, Hus could not and would not fulfil his ordination vow. In a sermon on 20 December 1410, Hus bluntly announced that he would no longer obey church authorities or his ordinary tersely by noting: “I will not listen to them.”⁴² For Hus, fidelity to the law of Christ took precedence over ecclesiastical obedience.⁴³ As conflict deepened, and criticism multiplied against his reform agenda, Hus ceased to obey the directives of the archbishop. This was initially a disciplinary issue, but it later evolved into a more serious dilemma for Hus and the medieval church. The matter of obedience was one of practical importance. An office manager, business supervisor, or construction foreman cannot effectively oversee a project unless those under his or her command obey directives and fulfill their obligations. A building or a wall cannot be constructed if the workers do not follow the blueprints and pay no attention to the instructions of the project manager. A church cannot operate as a cohesive unit if priests do not obey their superiors and insist upon doing what they think is best in a local setting without adequate consideration for the larger mission and broader objectives of the institution. Put simply, Hus reached a stage in his career as a priest where he no longer could be regarded as a team-player. He became increasingly deaf to the orders of the archbishop and ever more unwilling to bring his reform initiatives under the purview of his superiors.

In no fewer than thirteen cycles of accusation brought against Hus between 1408 and 1415, the common and recurrent theme of disobedience appears. Hus was denounced for taking no note of papal directives. His refusal

⁴¹On de Causis, see Fudge, *Memory and Motivation*, 109–133. On Pálež, see Jiří Kejř, *Z počátků české reformace* (Brno: L. Marek, 2006), 111–131 (in English as “Master Štěpán of Pálež and Hus’s Trial,” *Kosmas: Czechoslovak and Central European Journal* 28.2 [2015]: 87–109).

⁴²Václav Flajšhans, ed., *Mag. Io. Hus Sermones in Capella Bethlehem, 1410–1411*, 6 vols. (Prague: České společnosti nauk, 1938–1945), 2:102.

⁴³“O šesti bludiech,” in *MIHO*, 4:279–282.

to fulfil his oath was so egregious that he was excommunicated for contumacy. Other ecclesiastical authorities took the step of formally censuring Hus for declining to appear when summoned to a hearing. Hus effectively ignored the citation, and refused to submit either specifically to his archbishop or generally to church authority. It is of note that Hus was excommunicated by Cardinal Peter degli Stephaneschi in 1412 on account of gross disobedience.⁴⁴ Two hundred years earlier, according to Pope Innocent III, in such cases, disobedience was criminal.⁴⁵ Eventually, even Hus admitted he was recalcitrant.⁴⁶ On the day Hus went to the stake, the Bishop of Lodi preached in the Constance cathedral arguing that the disobedient had to be destroyed and “especially this stubborn heretic who is here present.”⁴⁷ It cannot be maintained that Hus was being singled out. After all, the same council which condemned him also censured, deposed, and imprisoned Pope John XXIII.

The fate of Hus must also be linked to his decision to dissent. The founder of Christianity said that in his Father’s house were many rooms. Curiously, his disciples have insisted all Christians should live in the same one.⁴⁸ Hus appears to have taken up domicile in a seldom-used room in the house of God. This initially caused suspicion. When Hus persisted in remaining apart from the majority of the Christian community, this led to consternation and eventually to outrage. According to medieval Latin canon law, heresy was legally defined as holding views chosen by human perception, judged contrary to Scripture, publicly declared, and stubbornly defended.⁴⁹ In practical terms, heresy might be thought of as a house consisting of at least nine rooms. Each room represents a different manifestation of heresy, each one reflecting the elements of the canonical definition and each presenting considerable worry to the church. In the house of heresy we find intellectual deviants, would-be reformers, those who stubbornly disobey, challengers of social order, perpetrators of civil disorder, madmen, carriers of disease, perverts, and servants of Satan.⁵⁰ As we have seen, well before the Council of Constance convened, the idea of heresy in the Latin West encompassed doctrine and

⁴⁴Palacký, *Documenta*, 461–464.

⁴⁵Innocent III (1199), X 5.7.10, *Vergentis in senium*, in Friedberg, *Corpus iuris canonici*, 2:782–783.

⁴⁶This in a letter from the spring of 1411 addressed to Jan Barbatus and the people in the town of Krumlov. Novotný, *Korespondence a dokumenty*, 89–92, especially 90. See also Hus’s understanding of the “other sheep” in the sense of heresy in Thomas A. Fudge, *Jan Hus Between Time and Eternity: Reconsidering a Medieval Heretic* (Lanham, MD: Lexington Books, 2016), 141–163.

⁴⁷The text of the sermon by the Dominican, Giacomo Balardi Arrigoni, appears in *FRB*, 8:489–493. The comment appears on 493. For analysis, see Fudge, *Time and Eternity*, 99–116.

⁴⁸Robert I. Moore, *The Origins of European Dissent* (London: Penguin, 1977), 1.

⁴⁹C.24 q.3, cc. 27–31, in Friedberg, *Corpus iuris canonici*, 1:997–998.

⁵⁰This idea of heresy appears in Thomas A. Fudge, *The Trial of Jan Hus: Medieval Heresy and Criminal Procedure* (New York: Oxford University Press, 2013), 31–72.

behavior. This broadened the scope of heresy so that anyone, theoretically, on less than good terms with ecclesiastical authority, might be denounced as heretical. Medieval heresy was neither accidental nor incidental. The ante-Nicene church father, Origen, said the foundations of heresy were consistently found in issues where the principle involved was important and beneficial to human life.⁵¹ Constance reflected the nature of ecclesiastical politics, which increasingly shaped Christianity from the Nicene period through the Middle Ages. The political inheritance of Nicaea created, marginalized, and often destroyed heretics. Hus's refusal to recant or submit to the authority of the Council could be, and was, judged contumacious. That finding was not improper. Part of the tragedy at Constance is that Hus insisted on dying.

Legal Factors

After theological controversy, political pressures, the struggle to align conscience and obedience, and the perils of heresy, the case of Hus became a legal process; a formal court matter. It is important to understand that the trial was not a forum in which matters of truth and justice would be discussed, debated, or even that such considerations would prevail. The court was convened to determine if Hus was a heretic. Inasmuch as heresy was a crime, the Hus trial qualified as a special type of criminal proceeding. Indeed, heresy was considered an exceptional crime.⁵² The canonical Constitution *Saepe contingit* drew attention to the fact that matters ought to proceed "simply and plainly, without clamor and the normal forms of procedure," which does not suggest the suspension of due process and the invoking of summary justice.⁵³ There are a number of papal decretals that deal with summary criminal procedure. For example, Boniface VIII's constitution *Statuta* and Innocent III's *Veniens*, can be read to mean that Boniface suggested that advocates could be barred from the courtroom (*advocatorum strepitu*), while Innocent permitted the absence of advocates in criminal cases (i.e., heresy trials).⁵⁴ By the latter stages of the Council of Constance, Pope Martin V had declared that criminal heretics had no right to legal representation.⁵⁵ However, it would be specious to argue that heresy trials could simply avoid adhering to proper procedure. Importantly, *Saepe contingit* also points out that "the judge

⁵¹*Origenes Contra Celsum: Libri VIII*, ed. Miloslav Marcovich (Leiden: Brill, 2001), 3.12–13.

⁵²Edward M. Peters, "Crimen exceptum: The History of an Idea," in *Proceedings of the Tenth International Congress on Medieval Canon Law*, ed. Kenneth Pennington, Stanley Chodorow, and Keith H. Kendall (Vatican City: Bibliotheca apostolica vaticana, 2001), 137–194.

⁵³Clem. V, 5.11.2, *Saepe contingit*, in Friedberg, *Corpus iuris canonici*, 2:1143.

⁵⁴Sext., 5.2.20, *Statuta quaedam*, in Friedberg, *Corpus iuris canonici*, 2:1078; X 5.1.15, *Veniens*, in Friedberg, *Corpus iuris canonici*, 2:737.

⁵⁵Inter cunctas, 1418, in Giovanni Domenico Mansi, ed., *Sacrorum conciliorum nova, et amplissima collectio . . .*, 53 vols. (Graz: Akademische Druck- und Verlagsanstalt, 1960), 27:1213.

should not abbreviate the *litis* so as to eliminate admitting necessary proofs and a legitimate defense.⁵⁶ In sum, medieval jurists never argued that key elements of due process could be entirely omitted in summary procedure, even when matters had escalated to considerations of exceptional crime.⁵⁷ Allegations that the Hus trial contravened due process, was in consequence illegal, and therefore resulted in judicial murder, must fulfil the burden of the legal obligation *affirmanti non neganti incumbit probatio*, which insists that the burden of proof is on the one who affirms, not on the one who denies.

If the court convened at Constance to hear the Hus case was not centrally concerned with truth or justice, what was the motivation? It seems that issues of power, authority, and order predominated.⁵⁸ The involvement of secular rulers like emperor-elect Sigismund was both normal and expected. There was, in fact, a great deal of pressure on both secular and ecclesiastical authorities to deal decisively with heresy. As part of his or her religious obligations, the secular prince was obliged to act against heretics. Twelfth-century Italian jurists are representative of a formal body of opinion. For example, Irnerius believed that every heretic should automatically be considered *infamia* (infamous). Rolandus opined that the punishment of heretics was less a matter of vengeance than a pastoral “correction of love” (*amor correctionis*), while Huguccio characterized heretics as thieves and robbers who plundered the church and, in effect, stole from God. In consequence, princes who refused to intervene or who were negligent in fulfilling their duty in this respect were liable to incur punishment themselves. Certainly, less salutary matters intruded, but heresy was not simply a religious or theological matter.⁵⁹

As a medieval legal proceeding, the advocates representing the interests of the church dealt with evidence, legal argument, and procedural matters in quite specific ways. Did they manipulate the law? Lawyers serve their clients and do all in their power and within the limits of the law to represent their clients to the best of their ability, and they also seek to interpret and apply the law in the best interests of the client. All too often, the process is rather messy, especially when fervent religious beliefs are involved.

On 18 October 1412, Hus appealed to Jesus Christ. The strategy was quite unprecedented.⁶⁰ By taking this step, Hus was explicitly arguing that all human authority was subservient to Christ and the court of highest appeal lay not

⁵⁶Clem. V, 5.11.2, *Saepe contigit*, in Friedberg, *Corpus iuris canonici*, 2:1200.

⁵⁷Charles Lefebvre, “Les origines romaines de la procedure sommaire aux XII et XIII siecles,” *Ephemerides Iuris Canonici*, new series 12 (1956): 149–197.

⁵⁸Fudge, *Trial* and Jiří Kejř, *Husův proces* (Prague: Vyšehrad, 2000), cover the full scope of the legal process.

⁵⁹C.23 q.5 p.c. 25, *Preterea*, in Friedberg, *Corpus iuris canonici*, 1:938; Henri Maisonneuve, *Études sur les origines de l’inquisition*, 2nd ed. (Paris: J. Vrin, 1960), 62–63, 73–84.

⁶⁰The appeal has been the subject of several analyses with the most recent being Fudge, *Trial*, 188–214; Kejř, *Husovo odvolání od soudu papežova k soudu Kristovu* (Prague: Albis International, 1999).

within medieval canon law as codified in the Latin Church, but within the law of Christ. This strange appellate posture (the appeal to Christ) constituted a fateful moment for Hus. It implied an ultimate rejection of canon law and ecclesiastical authority, including both papal and conciliar. That implication was not lost on the members of the Council of Constance. It marked Hus as a subversive.

Was it a spontaneous, impulsive act, or had Hus contemplated this step all along as a contingency plan? Can his appeal be put down to an emotive display of bitterness and a sense of injustice? It does not seem likely that Hus set out with a strategy of ultimately appealing to a spiritual authority higher than the available ecclesiastical legal channels. From a canonical point of view, Jesus Christ was a non-existing judicial authority. In terms of law, Hus relied less on technical legal argument and more on the morally binding nature of law.⁶¹ Often medieval canon law contained moral or ethical comment. Such glosses were always regarded as secondary. Hus represented a different emphasis in his reliance on the theological or moral authority sometimes in opposition to the legal thrust. Hus actively privileged the *lex Christi* principle over the written legal code.⁶² This caused some consternation when it became clear that Hus considered human law, both secular and ecclesiastical, to be temporary, while the law of God was eternal. The church developed and interpreted canon law. The medieval church considered itself the guardian of truth. It was not prepared to allow Hus to serve as the arbiter of divine law. From an ecclesiastical point of view, it seemed evident that Hus had no desire to remain loyal to his vows of obedience. Moreover, he regarded the church as corrupt and appeared to assume that he alone understood divine truth and the will of God. That realization was appalling to his colleagues and abhorrent to the prelates. It caused Hus to become a late medieval Joseph, whose prognostications once more caused his brothers to hate him, conspire against him, and ultimately sell him out to strangers, which resulted in exile (Gen 37).

All of this goes some distance to clarify that Hus's appeal to God amounted to a repudiation of ecclesiastical authority. That being so, it raises the question of why had Hus come to Constance in the first instance if he steadfastly would not consider the authority of the Council? The answer lies in a fundamental error Hus made. He appeared to have had no realistic idea of what he faced at the Council. Indeed, he prepared a sermon—*De pace*—which he expected to preach to the delegates.⁶³ The assumption that he would be permitted to deliver a homily to the Council is without any foundation. Clearly, Hus did not appreciate that he was voluntarily going to Constance as an accused heresiarch where he would stand

⁶¹Jiří Kejř, "Jan Hus jako právní myslitel," in *Jan Hus mezi epochami, národy a konfesemi*, ed. Jan B. Lášek (Prague: Česká křesťanská akademie: Husitská teologická fakulta Univerzity Karlovy, 1995), 197–207.

⁶²Among his dossier compiled for the Council of Constance we find an essay that argues for the sufficiency of the law of Christ (*De sufficientia legis Christi*, in *Historia et monumenta*, 1:55–60).

⁶³The best edition appears in František M. Dobiáš and Amedeo Molnár, eds., *Sermo de pace – Řeč o míru* (Prague: Česká křesťanská akademie, 1995), 34–78.

trial on allegations of heresy and disobedience. These were grave charges. The hearing before the sage men of Christendom was a court trial; indeed, it was a continuation of a formal legal process, which had begun in June 1410. Hus seemed to have thought his appearance before the Council might be the equivalent of an academic debate.

Conclusion

Which came first, politics or theology? In the case of Hus, there is compelling evidence to suggest that political factors exerted considerable force on the work of Hus, to the extent that theology became the mechanism for repression and ultimately condemnation. When admonished and reminded of his oath of obedience, Hus resisted and that resistance resulted in disobedience. Stubborn, continued disobedience is among the most important factors in establishing and sustaining suspicion of heresy. Persistent disobedience was considered contumacy, and contumacy was heresy.⁶⁴ It would be difficult to overstate the role that contumacy played in matters of faith (*contumax in causa fidei*) during medieval heresy trials.⁶⁵ Once suspicion of heresy became formal accusation, prevailing factors of law, including inquisitorial procedure, took over and, in the absence of recantation, conviction and punishment became inevitable. In the medieval period, the consequences included the stake.⁶⁶

Why was Hus burned at the stake? Hus was burned because adverse political factors magnified points of theology until they were deemed incompatible with the broad thrust of the medieval church. When admonished, Hus refused to heed the counsel of ecclesiastical authority. Disobedience led him onto the dangerous ground of contumacy. Persistent continuation in that stance evolved into suspicion of heresy. Once that suspicion developed into formal accusations, the matter escalated naturally into a legal procedure resulting in a court trial in which the verdict *stare decisis*—based on precedent—was entirely predictable. Hus was also burned as a result of the courage of conviction which would not allow him to retreat from the principles he believed were correct, righteous, true, and firmly rooted in the law of God. Hus drew a distinction between Christianity and Christendom. Christianity is Christ. Christendom is the structure which has been built around Christ.

⁶⁴X 5.37.13, *Graven dilectorum*, in Friedberg, *Corpus iuris canonici*, 2:884. See also the discussion in Howard Kaminsky, “The Problematics of Later Medieval ‘Heresy,’” in *Husitství, Reformace, Renesance: Sborník k 60. narozeninám Františka Šmahela*, 3 vols., ed. Jaroslav Pánek (Prague: Historický ústav, 1994), 1:133–154. A response and rebuttal to Kaminsky is found in Thomas A. Fudge, “Obrana ‘Kacířství’: teoretické pojednání” *Mediaevalia Historica Bohemica* 9 (2003): 295–314 (this was revised in English as idem, “Defending ‘Heresy’: A Theoretical Elaboration,” in Thomas A. Fudge, *Heresy and Hussites in Late Medieval Europe* [Farnham: Ashgate, 2014], 1:1–22).

⁶⁵Bernard Gui, *Practica inquisitionis heretice pravitatis*, ed. Célestin Douais (Paris: Picard, 1886), 285.

⁶⁶G. G. Coulton, *The Death Penalty for Heresy* (London: Simpkin, Marshall, Hamilton, Kent & Co., 1924), 1–30.

Hus preferred the former over the latter. The medieval church was committed to the traditionalism of its history, its authority, and its conviction of an apostolic mandate. Hus was resolutely committed to the tradition of Christ.⁶⁷ What were the differences? One might say that traditionalism is the dead faith of the living, while tradition is the living faith of the dead.⁶⁸ Such conclusion was offensive to the guardians of medieval Christendom, who saw their role as preserving the faith once delivered to the saints and to protecting the ancient landmarks against improper relocation. In this sense, the medieval church was comprised mainly of settlers. Hus was not interested in once again laying down the foundations of what had already been established. He desired to build on those foundations and participate in the continuous reformation of the church. In this sense, he was a pilgrim.

Pilgrims and settlers, by definition, cannot dwell together. In his last sermon, never preached, Hus was prepared to tell the Council of Constance that they had failed to serve God. The priests (whom he somewhat facetiously called “shepherds”) initially did put on the person of Jesus Christ, but thereafter failed to live up to their obligations to preach the word of God. They lived in a manner inconsistent with the gospel and committed acts of enormous evil. As a result, they were transfigured by Antichrist and Satan into angels of light. But that light was not life. These faithless clerics were denounced by Hus as thieves and robbers. Abandoning their duty to tend the flocks, these wicked shepherds became killers of the sheep. Such traitors transformed God’s house of prayer into a den of thieves.⁶⁹ The rhetoric betrays utter incompatibility between the priest, Hus, and his church. Believing there was no lasting city in the late medieval world, Hus encouraged others to join him in seeking for the eternal city that was still to come, whose builder and maker was neither popes nor bishops, but God. That pilgrimage, that pursuit of the living faith of the dead, took Hus from his pulpit at Bethlehem Chapel in Prague to an international stage; from southern Bohemia to the Council of Constance, and thereafter, inevitably and unavoidably, to the stake.

⁶⁷I have explored these principles in some detail in Thomas A. Fudge, “Hus *redivivus*: How to be a ‘Hussite’ after 600 Years,” *The Hinge: International Theological Dialogue for the Moravian Church* 22:1 (2016): 23–42.

⁶⁸Jaroslav Pelikan, *The Vindication of Tradition* (New Haven: Yale University Press, 1984), 81–82.

⁶⁹Dobiáš and Molnár, *Sermo de pace*, 76–78.