

OBSERVATIONS ON THE BOOKS OF CURSES ISSUED IN WALLACHIA (18TH CENTURY)¹

Abstract: *We intend to point out the circumstances that contributed to the transformation of books of curses into a juristic, evidence-giving act which played a decisive role on the practices of the princely Divan. To do this, we shall proceed to describe the genetic context that determined the appearance of books of curses. We shall consider, on the one hand, the political and social environment of the 18th century and on the other the general formulation pattern used in the princely and ecclesiastical courts, in order to find out to what extent the sanctio subdivision could be deemed as a matrix for books of curses. In order to describe the generic context of issuing books of curses, we have proposed to consider by comparison the normative juristic texts, both secular and clerical, that facilitated the imposition of these acts in the Romanian juristic practices. The functional context will be depicted through the corpus of texts we use, namely the books of curses kept in the National Archives in Bucharest and recorded in the Catalogue of the Metropolitan Church of Wallachia and of the Argeș Diocese respectively.*

Key words: *books of curses, juridical status, Wallachia.*

Elements of a normative and institutionalized social system, books of curses reflect on a conceptual level the legitimacy of authoritarian actions. The juridical status they acquired in ecclesiastical courts of law as well as in princely (civilian) courts of law indicate they were a standard of a pattern of thought, expression, interpretation and exertion of pressure which exhibits a permanent relationship of an instrumental type with the social environment.

I. The Genetic Context: Co-ordinates of the Historical Space

In order to identify the scope of institutionalized mechanisms that authorized the use of curses under their most diverse forms, we ought to delineate the social and political conditions of the 18th century.

The diachronically-outlined description of the institutionalized framework, articulated distinctly as a propensity of a civic and religious culture enables us to understand the occurrence, dissemination, legality, and necessity of books of curses in Romanian society during the period of the Phanariot rule, supplying important data on the preservation/deterioration of the idea of justice, fear, offensive witchcraft, death, etc., in the collective mentality.

The political instability appears as relevant, as from 1711/1716 to 1821 there were no fewer than 31 princes who came from 11 different families and succeeded one another.

The framework of the 18th century is unfortunately completed by the 'natural catastrophes,' in which 'bad harvests, followed by food shortages or serious famine, epidemics, the presence of foreign armies and the rigors imposed by military occupations or

¹ Laura Bădescu, University of Pitești, Romania, laura.badescu@history.ox.ac.uk.

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the transformation of the territories of the principalities into a battlefield overlap, determine and intertwine their consequences, creating chains of unfortunate circumstances, capable of producing phenomena of massive poverty,⁷(Livadă-Cadeschi, 2001:42) a pauperization also made possible by factors such as the excessive or arbitrary nature of the fiscal system, the weak influx of money to the economy, the existence of the Ottoman monopoly on trade, the proliferation of criminality through brigandage and highway robberies, etc.

The effect of these historical circumstances is enhanced by the plague and the subsequent setting of fire on properties, which also often led to the destruction of the documents that proved who the owners were. The loss of documents, the multiplication of frauds and false documents can be seen as premises for the multiplication of books of curses whose aim was to help find out the truth. It must be noted that attempts to suspend the civil rights of people who broke the law existed even prior to 1795. We mention here only the introduction in 1786 of the *Register of Sly People* under the order of Alexandru Mavrocordat, which summed up the names of forgers of documents and of lying witnesses who were revealed to have lied and thus barred from testifying in other trials.

The *formulation pattern* of books of curses preserve the traditional formulation pattern of the documents issued in princely and ecclesiastical courts of law.

II. The Generic Context

The Generic Context aims to present the normative texts that recommend the sanction in case of anathematization, bans and curses. We consider ecclesiastical normative texts as well as secular juridical texts, without omitting the fact that until late in the 17th century, the two courts of law often used the same corpuses of texts.

In ecclesiastical normative texts, the anathema is grounded on the Old and the New Testament (see Dură, pp. 120, 136, and so on), but also on the *Holy Canons of the Orthodox Church*. It must be pointed out that the country's hierarchs or the patriarchs from Constantinople were the only ones who could anathematize and also repeal the act.

From another perspective, this time that of the sanction stipulated in the texts of civil law, we cannot exclude the acquisitions of *common, consuetudinary* or *habitual law*, especially considering the fact that sentences could be established on its basis whenever there existed no written law.

In fact, even certain curses used until the 18th century record the existence of common law and of serious sanctions, which were applied as a sign of civic degradation. Among these, the most noteworthy appears to have been the mutilation of the hand. A series of curses nowadays circumscribed to folk literature and folklore may be considered as remnants of the common law, although they are thought to have originated in the principles of the progressive pastoral common law or in the calls for justice uttered by a group of lads, etc.

In the first half of the 18th century, justice was still regulated according to Matei Basarab and Vasile Lupu's *Code of Laws*, to *Correcting the Law* and to the *Armenopol Code of Laws*.

The legislative initiatives of that century were also motivated by the necessity to norm the Romanian society, which was overwhelmed by the abuses caused both by an alarming increase and diversification of misdemeanors and a faulty application of the customary code of laws or of foreign codes of laws.

The main juridical texts written in the Romanian Principalities under the authority of the Phanariot rulers recommended the punishment by anathema in the most diverse of cases, as can be seen in the *Juridical Manual* (1766), written by Mihail Fotino from Hios,

in the 1765 *Law*, in the *Nomocanon* of Gheorghe from Trapezunt (1730), and in the *Pandects* of Toma Carra (1806) respectively. Among the juridical texts written in Romanian we mention Alexandru Ipsilante's *Legal Code of Laws* (1780), the *Kalimah Code of Laws* (1816), and Caragea's *Legislation* (1818).

If in the codes of laws dating from the 17th and 18th centuries, a time when the church canons appeared alongside the civilian ones, the curse was constantly associated with the anathematization and the casting of bans, we notice that in the civilian normative codes from the 18th century the curse gradually specializes until it identifies with the oath taken by witnesses, as in *Caragea's Legislation* and in *Civilian Legislations of Wallachia*: 'The book of curse is given wherever, however and whenever the oath is taken, and thus: Whatever we have deemed as lawful for the oath, the same applies to the book of curse'.

III. The Functional Context

Claiming a Byzantine origin, the books of curses, in the same manner as the Serbian ones (Ursăcescu, V., 1926: 510), as we have already stated, have a formulation pattern that is similar to that of the acts and documents issued by the Romanian Principalities' princely and ecclesiastical courts of law.

We notice that books of curses have often been identified with books of casting bans. However, based on the documents we had access to, we ought to point out that there are significant differences between a book of curses, a book that casts a ban, and a book of enforcement/of tying (to the curse).

Although each of the three types of documents appears to be circumscribed to the curse, they are individualized, especially by two of the subdivisions of the usual formulation pattern, namely by *dispositio* and *sanctio*.

Thus, in books of curses the *dispositio* (materialized through the will of the issuer as regards the object of the document) consists in identifying the truth in a certain matter, most often related, though not solely, to trials deciding the borders of estates.

In books for casting bans, the disposition indicates the punishment or exclusion from the community of those whose deeds are unworthy of a Christian, while in the books of enforcing the bans it aims to protect the dispositions of a previous act, which it regularly accompanies. As it is known, these acts appear due to the attributes of notary that the metropolitan bishop and bishops exert 'regarding the authentication or enforcement of certain juridical acts'. At the same time, the tying through curses proves the interconnection between the matters under litigation and is explained by the make-up of the Divan, which gathered secular authorities as well as hierarchs of the church.

In books of curses, *Sanctio* uses stereotypical formulas, taken predominantly from church literature, and envisages spiritual punishments. In books for casting bans, although the stereotypical formulas do appear, they do not display the same regular pattern and do not seem to follow a formulation pattern – instead they innovate. Spiritual punishments often accompany material punishments. Among the most widely known books for casting bans, we quote the book that is closest to us in time, issued on 11th March 1821 by Patriarch Gregory of Constantinople and by the 21 members of the Synod against the people who had sparked off the uprising and had joined the Eterian movement.

But it should be pointed out that despite the fact that between books of curses and books for casting bans there are major differences concerning their finality, books of curses have often been called, wrongly, books for casting bans.

The *Sanctio* from the books of enforcement of certain acts or documents comes close to books of curses due to the almost exclusive presence of the spiritual punishment,

often expressed through the recognized phrases. The innovation is also present here, but not to an overwhelming extent.

In books of curses – issued at the request of a litigant and often at a considerable price, as the price apparently reflected both the rank of the issuer and that of the petitioner - *sanctio* adopts, partially or totally, the *recognized formulas*. The operation of amplification occurs entirely on a negative level, through an impressive ceremony, which gathers all the means of pressure which an individual living in the middle ages could not face.

All the punishments stipulated in the juridical texts of the *ecclesia* or of the civil law can be found transposed in the curses' extensive formulas of the 18th century: not absolving the body after death, the possibility of absolution from the curse and so on.

Returning to the corpus of texts we studied, we would like to make a few observations about some of the statements that have become commonplace in literature.

As it is known, the presence of books of curses was attested in the 16th century and was connected in Romanian bibliography to the ever-growing authority that the ecumenical patriarchate from Constantinople tried to exert over the institutions in the Romanian Principalities (Elian, Alexandru, 1956: 367-369). However, the hypothesis according to which the Phanariot rulers deliberately permitted this practice, which consolidated in the Romanian Principalities the authority of the ecumenical church from Constantinople and of the Greek Orient needs careful consideration, and its validation could only be pronounced on statistical basis, which should include data that is as exact as possible about the number of books of curses issued by the Greek hierarchs (an argument frequently mentioned is that from the 16th to the 18th century the books of curses were written in Greek, as well as in Church Slavonic or Romanian).

Regarding this statement, the corpus of documents we studied for the 18th century was the following: *Juridical Acts from Wallachia: 1775-1781*, an edition made by Gheorghe Cronț and the unedited documents recorded in the Catalogue of the Metropolitan Church of Wallachia and of the Diocese of Argeș respectively and kept in the National Archives from Bucharest.

For the sake of information accuracy, we point out that the statistical data presented today is taken exclusively from the material existing in the National Archives. We opted only for this data base, since we considered it closer to the historical realities of the 18th century, as it is an authentic corpus that has not been subjected to any restriction or editorial selection.

Thus, statistically, from the 306 packets of documents which include a variable number of acts circumscribed to the allotted geographical region (between 5 and approximately 100 documents) included in the Catalogue of the Metropolitan Church in Wallachia, 73 books of curses have been identified as such. Of the 73 books of curses, only five were issued by the patriarch, and the rest were issued by the metropolitan bishop (63) and the bishop (5) respectively.

In order to verify by comparison and to validate, albeit partially, the veracity and the representativeness of these statistical figures, we made an inventory of the corpus of documents recorded in the Catalogue of the Diocese of Argeș. Thus, from a total of 69 packets, 24 books of curses and 3 books for casting bans have been identified, of which one book of curses was issued by the patriarch, four were issued by the bishop., and the rest (19) were issued by the metropolitan bishop. (The three books for casting bans were also issued by the metropolitan bishop.)

Percentage-wise, the ratio of issuing may be said to be very close (the Metropolitan Church of Wallachia: issued by the Metropolitan Bishop – 86.30 %; issued by

the Patriarch – 6.84 %; issued by the Bishop – 6.84 % and for the Diocese of Argeș: issued by the Metropolitan Bishop – 79.16%; issued by the Patriarch – 4.16%; issued by the Bishop – 16.66%, which, on the basis of the aforementioned corpus leads to the unquestionable conclusion that the issuing of books of curses was a function reserved mainly for the metropolitan bishop.

If we are to take into consideration the edited texts we studied on the basis of this corpus of texts, we may refute, albeit partially, another thesis that has been adopted and become trendy in literature, which supports the existence of the books of curses written by priests.

We have not been able to identify even one such document. Nevertheless, here we must take into account the following shortcomings: due to the fact that we deal with official documents issued by the highest ecclesiastical authorities, those issued by the priests were unlikely to be recorded, kept or forwarded to the tribunals that were legally entitled to issue such acts.

It is only by researching certain private archives (of the families of some boyars that had numerous litigations in the courts of law during the 18th century) or certain corpuses of documents recorded in princely annals that we can hope to see whether the issuing of books of curses by the priests was indeed an authentic and commonplace practice.

Even if this were the case, the registers of the Metropolitan Church indicate, due to the absence of any records of the documents issued by priests, the fact that the authority of such acts was not recognized, and this may make us think of other practices, which bear no relationship to the issuing of books of curses.

The analysis of the aforementioned corpus of texts also confirms the unprecedented circulation that the books of curses enjoyed in the 18th century. Thus, on the basis of identifying the chronological element through the final protocol, it was possible for us to obtain the following percentage situation: Among the documents included in the catalogue of the Metropolitan Church of Wallachia, 8.21% were written in the 17th century, 15.06% at the beginning of the 19th century, and 76.71% in the 18th century. The same high percentage also applies to the 18th-century documents extant in the catalogue of the Diocese of Argeș: 80.76% and 11.53% respectively for those issued in the 17th century and 7.69% for those written in the 19th century.

Our analysis of the edited corpus (Cronț Gh etc, 1973) highlights the constant use of the books of curses, especially during actions of *in situ* research aimed to establish the rightful owners of a property (estate, vineyard, orchard, outhouses, etc.). With the exception of litigations connected to establishing land borders, which are prevalent, among the particular reasons that stood behind the issuing of acts of cursing recorded in the documents included in the collection of the Metropolitan Church of Wallachia and the Diocese of Argeș respectively we also mention: finding out the truth regarding the cross of Alexandru Vodă and of Lady Mircioaia (M. TR. I/4), the litigation caused by the felling of trees in the Ciocănești forest (XXIX/8), the discovery of a cellar and location in Bucharest (MTR69bis/19), deciding whether Ioana and her girls were Gypsies or Romanians (69bis/46), etc.

The same corpus of documents provides comprehensive information about the manner in which the books of curses were issued. We notice that the writing of books of curses is sometimes requested by the secular authority. We refer here to the first 4 documents included in packet 111, where following the request of the ruler (19th Sept. 1700), the Metropolitan Bishop Theodosius sends a book of curse (17th Nov. 1700) to the 12 boyars elected to establish the borders of an estate.

Simultaneously, the documents comprise data regarding the manner of dissemination through *reading* in public places in cases when the recipient is multiple and unidentified (townspeople, peasants, villagers, inhabitants, etc.). We must point out that out of the 73 documents from MTR., 18 identified at least one recipient, and out of the 24 documents from the Diocese of Argeș, 10 identified, the same way, at least one recipient (which contradicts the claims that the recipient was unidentified).

The actual manner in which the borders were established is visible in the way the laymen react to books of curses and implies travelling to the respective estate in the presence of the appointed witnesses and of those who confess the truth without being on supervision. The gestures remind us of ancestral traditions, and we limit our examples to the placing of the document on the head or on the chest of the particular person.

The testimonies of the villagers are sometimes recorded on the page opposite to the book of curses (packet 111/ 31), or, in cases when these testimonies are too numerous, on a separate sheet of paper added to the book.

As one may notice, the analysis on the corpus of documents comes to clarify certain data taken from literature, which is generally based on a reduced number of texts. In fact, questions on the theme of books of curses have arisen naturally in the course of time. Adopting a discussion-based approach, *sine ira et studio*, which takes us from these books to the histories of mentalities, imagology and anthropology could create a clearer outline of the physiognomy of the Romanian society, especially for the 18th century. The acquisition of the *curse* in Romanian judicial institutions and its coercive use illustrates the impact that this act of linguistic magic exerted on the population until the beginning of the 19th century. The distinct documents in which the curse is integrated in Romanian diplomacy allow the understanding of the diverse manners in which the curse was used from the field of consuetudinary law to that of jurisprudential law.

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