Boëtius Epo

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BIографICAL INTRODUCTION

Boëtius Epo is a jurist whose life reflects all areas of tension and all contrasts typical of the sixteenth century. Born in Friesland, in the Northern Netherlands, which were soon to struggle out of the grasp of the Spanish king, he was to find his ultimate destination in Douai, situated in the Southern Netherlands still under Spanish rule. In his young life attracted to the enticing approach of the awakening Reformation toward the primitive church, he nevertheless retraced his footsteps, recognizing the orthodox Catholicism in which he had been raised. More than that, he revealed himself as belonging to the considerably radical wing of the Counter-Reformation. In his scholarly attitude there was a certain ambiguity between, on the one hand, being inclined to adhere to a re-foundation (ressourcement) of the sources of canon law, especially the texts compiled in the Decretum Gratiani, and, on the other, still adhering to spurious texts, maybe because from an ideological viewpoint their content was dear to him.

Boëtius Epo was born in Roordahuizen in Friesland in the year 1529. The exact date of his birth is unknown. His original name was Bote Ypes. He must have been of rustic descent: A reference to the countryside as his homeland can be found at the end of one of his works. There, a trident or pitchfork is depicted, with the epigraph Tridens laboriosus at beatus est (the trident is laborious, but prosperous). The sources display alternative readings of his name, sometimes with the addition ‘Frisius’ (the Frisian). In addition to the prefaces of two of his works, Epo pronounced himself upon the correct way of spelling his name. He stated that Boëtius was derived from the Greek word for messenger or angel (βοηθός ἀπὸ τοῦ βοηθεῖν) and that it had to be written

1 The author would like to thank Philippus Breuker and Jan Hallebeek for their help and Douglas Osler for further help and correcting the English.
2 See De iure sacro, vel principiorum iuris pontificii libri III ([s.l.]: Bogard [s.a.]), 380.
without aspiration (*sine flatu*), that is, in accordance with the genuine sound of the name in his native language or in German. Moreover, the addition *Frisius* should be written without PH or Y, just as it was spelled by ancient Latin authors and many others.  

In 1543, at the age of 13 or 14, he commenced his studies in Latin, Greek, and Hebrew at the Laurentianum in Cologne, a grammar school which had originated from one of the minor colleges. On 11 July 1551 he matriculated as an arts student at the University of Cologne and graduated in December of the same year as Master of Arts. From 1552 until 1554 he taught at the Latin school of the ‘Brethren of the Common Life’ in Zwolle. One of his students there was Jakob Middendorp (c. 1537–1611), who later became professor at various foreign academies and eventually in Cologne. In 1554, Epo went to Louvain, where he studied Homer, Hesiod, and other Greek authors. Subsequently he went to Nice at the invitation of Eustace Chapuys (1489–1556), a Savoyard diplomat who served Charles V (1500–1558) as Imperial ambassador. He soon left Nice and went to Paris to study law. In Paris he remained one year and then continued his studies in Toulouse, where in 1558 he took the doctoral degree in law under the auspices of Bérenger Fernand (†1567).

In 1560, Epo returned to Louvain where he taught until 1562. He did not like that position very much. The Frisian scholar Suffridus Petrus (1527–1597), who taught Latin and Greek in Erfurt, suggested to him that both would move to settle in one and the same city. In a letter of 24 July 1560 Epo responded, saying that he would prefer Erfurt, where Suffridus was staying, and not Louvain, despite the fact that Suffridus might feel differently. Epo added that he would like the Frisian jurist Cyprianus Vomelius (c. 1515–1578), who held a number of influential positions in the various German territories, to advance his promotion to a Germanic Province. As a reason for his wish to leave Louvain

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3 See Epo’s remarks after the *Praefationes dedicatorias* in his *Commentarii novem testamentarii* and his *Antiquitatum ecclesiasticarum syntagmata IV*.


he stated that ‘all that can be expected there is vain’.

The desired promotion failed to occur, but Epo nevertheless left Louvain. In 1562 he was one of the first four jurists offered a chair at the University of Douai, newly founded by King Philip II of Spain (1527–1598). Some friends had recommended Epo for that position to the King’s advisors, cardinal Antonio Perrenotti (1517–1586), Viglius of Ayta (1507–1577), and Joachim Hoppers (1523–1576). The solemn inauguration of the university took place on 5 October 1562. The Jesuit College (Collège d’Anchin) that was connected to the university was only established in 1568. Epo became ‘secondary’ professor, holding the chair of titres et regles de droit of both canon law and civil law. He requested to lecture not more than once a day, so that he would have time left for writing legal opinions. In 1565, he became lecteur ordinaire des Pandectes. In 1569, Epo tried in vain to become a Royal Historiographer, as appears from Viglius’s letters to Hoppers. He did obtain, however, the title of Count Palatine (comes palatinus). From 1574 or 1575 onwards, he was primarius of canon law. Moreover, because of his moral authority, his character, and the quality of his writings, he became permanent administrator of the University next to the rector. This position Epo maintained until he died on 15 November 1599. He was buried in the Jesuit Church of Douai. Boëtius Epo was married to Maria Kabeljaau van Iperen. The couple had four daughters and five sons. Three other children died prematurely.

One of his sons, Epo Boëtius (1577–1642), continued his father’s professorial position at the University of Douai.

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9 Boëtius, Epo (Ype Boates) (Gorredijk: Bornmeer, 2016), 355; De Wal, Oratio de claris Frisiae jureconsultis, 40.

10 Cardon, La fondation de l’Université de Douai, 582.


12 Suffridus Petrus, De Scriptionibus Frisiae, 261.
MAJOR THEMES AND CONTRIBUTIONS

Boëtius Epo wrote about diverse subjects, including antiquity, religious and ecclesiastical history, Roman law, and canon law.¹³ Moreover, he wrote Latin poems for prominent Catholic individuals,¹⁴ such as pope Sixtus V (1521–1590) and the cardinals Alessandro Farnese (1520–1589) and Antonio Perrenotti.¹⁵ He did not forget the prominent Frisians either, and wrote epitaphs for Viglius of Aytta and Joachim Hopper. He wrote epigrams for, among others, Petrus Pappus von Tratzberg (1558, fl. 1605–1614), Richard White (Richardus Vitus, 1539–1611), his student Petrus de Loubbéns, and his son Epo Boëtius.¹⁶

From his various writings, it appears that Boëtius Epo, although remaining a Catholic, in the days of his youth felt attracted to the teachings of the Reformation, especially its orientation toward the primitive church. In the fifties, he must have had a meeting with John Calvin (1509–1564) in Geneva. However, Epo returned to his old faith and frequently openly expressed his regrets for this youthful lapse. Eventually he became a fanatical adherent of the Counter-Reformation.¹⁷ We will discuss first his editions of theological texts and subsequently his orations, works on canon law and Roman law, and other writings.

Editions of Theological Texts

Boëtius Epo edited various ancient, theological texts. In 1564 he edited the Προγνωστικῶν sive de futuro saeculo libri tres of archbishop Julian of Toledo (c. 642–690). This work was an early systematic discourse on Christian eschatology, originating from the year 688. It consisted of three books, which deal successively with death, the state of the souls before the Last Judgement, and the resurrection of the dead. The praefatio of the edition is dedicated to Philip II. Epo thanked the King for appointing him to the University of Douai. He

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¹³ Other works by Boëtius not discussed in this contribution are Sententiae Homericae (1555), Dictata juris (manuscript Royal Library Brussels 1620) and De regalibus in beneficiis ecclesiasticis (René Dekkers, Bibliotheca belgica juridica: een bio–bibliographisch overzicht der rechtsgeleerdheid in de Nederlanden van de vroegste tijden af tot 1800 [Verhandelingen van de Koninklijke Vlaamse Academie voor wetenschappen, letteren en schone kunsten van België, Klasse der Letteren, Jaargang XIII, No. 14] (Brussel: Koninklijke Vlaamse Academie voor Wetenschappen, Letteren en Schone Kunsten van België, 1951), 21–22). The latter could be the sixth question of the Heroicarum et ecclesiasticarum quaestionum libri VI.

¹⁴ Wumkes, Paden fen Fryslan, Samle opstellen, 104.

¹⁵ See at the beginning of Heroicarum et ecclesiasticarum quaestionum libri VI De iure sacro, vel principiorum iuris pontificii libri III.

¹⁶ See at the end of Antiquitatum ecclesiasticarum syntagmata V.

¹⁷ Andreas, Bibliotheca Belgica, 113.
described the various religious communities, which, driven by pride and hate, were combatting the Catholic religion, thereby damaging the Christian Republic. According to Epo his text edition was aimed at bringing all religious controversies to an end. In addition to the text of Julian, Boëtius also edited some fragments from the works *De vitae monasticae variis generibus et institutis* and *De percipienda Eucharistia* of Isidore of Seville (c. 560–636).

Two Early Orations

In 1564, two years after his appointment in Douai, Boëtius Epo published two orations. The first, dedicated to Valerandus Hangvart, chancellor of the University and almoner of the King, dealt with the various designations for scholars in the course of history (*De honorum academicorum titulis et insignibus eorumque origine, progressu et legitimo usu*). The second oration, dedicated to his host Balduinus Glendius (Baudoin de Glin?), dealt with the true fruits of the perfect Roman jurisprudence (*De Romanae perfectaeque jurisprudentiae fructibus genuinis*). In the dedication of the latter book, Epo thanked his host for allowing him to live in his house without any charge. The same year the orations appeared for the first time, and both were later reprinted as one volume.

Works on Canon Law

In 1576, twelve years after the publication of the two orations, Boëtius Epo published a work under the title *Antiquitatum ecclesiasticarum syntagmata IV*. The preface was addressed to the King and the States-General. It contained autobiographical elements. Boëtius explained that the work, consisting of four ‘syntagms’ or ‘composed texts’, was aimed at strengthening the Catholic religion. Moreover, he mentioned the subjects he was teaching in Douai. These appear to include pacts, transactions, the *condictio* (Roman law) and celibacy of clerics, property of monasteries, and monks called to the Episcopacy (canon law). The first syntagm discussed the issue of ecclesiastical

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18 *En passant*, Boëtius pointed out that the famous German Benedictine abbot and polymath Johannes Trithemius (1462–1516) had mistaken archbishop Julian for the priest Julian Pomerius (†c. 500). See also the *Dedicatio* in the oration *De Romanae perfectaeque jurisprudentiae fructibus genuinis oratio*.

19 *Orationes duae, una de honorum academicorum titulis et insignibus eorumque origine, progressu et legitimo usu, altera de Romanae perfectaeque jurisprudentiae fructibus genuinis* (Douai, 1564, also printed Leipzig, 1727).

20 *Antiquitatum ecclesiasticarum syntagmata IV, Ad sacrosanctos Patres Patriae Belgicos, Regem nempe Catholicum ac Ordines vel Status universos Belgii* (Douai, 1576).
revenues, described in their historical development (De jure proventuum ecclesiasticarum) and contained a commentary on some of the decretals contained in the title on last wills of the Liber Extra (X 3,26). The second dealt with the Decalogue as a source of all ecclesiastical laws (De legum ecclesiasticarum, quinimo cunetarum fontibus vel Decalogo), the third with the Lord’s Prayer (De rudimentis admirabilibus vel precatione dominica). The fourth and last syntagm described the life of St. Yves, the patron saint of law students, especially those studying canon law (De vita D. Ivonis).

In 1578 the Antiquitatum ecclesiasticarum syntagmata IV was published for a second time, together with a sequel, entitled Antiquitatum ecclesiasticarum syntagmata V. This time both were provided with an index. In the preface to the new collection of ‘syntagms’, dedicated to pope Gregory XIII (1502–1582), Epo started by taunting the Protestants. As an example of how one can be stained by false doctrine, he referred to his own meeting with Calvin and subsequently explained how he returned to the pure Catholic religion:

(…) I give an explanation concerning myself, who, hunted by different tails of different foxes, smeared with the dregs of these and then again those doctrines, now even rejoicing and bragging about a salute by Calvin in the vicinity of Geneva itself as if by some God of many peoples, once as a youth on the road in very dangerous wanderings, and indoctrinated by the Calvinists in the Kingdom of France and by stinking rules, I apparently knew nothing about the vicious approach of the Reformation towards worshiping the pure and orthodox Christian faith of Antiquity, I lapsed through a huge misstep, then again I thought to remain unhappy by a far too idealistic and very definite mistake, until finally having become a well–formed man through the purest sources of ecclesiastical antiquity, led by the Spirit of God, who clearly took care of me in spite of my offence, and working according to the holy instructions of Catholic men, while all things were rejected and brought into line with the infallible judgement of the highest Catholic mother church (as is the correct thing for all faithful) and by seeing that these promises of new doctrines actually stood and stand away from the truth of ecclesiastical antiquities. For a long time I have been deeply ashamed of the most horrible errors and I regret those. And the most gracious mother church, embracing me in her womb, strengthened me with the proper ritual (…).

Again, he presented himself as an example in order to point out that many can return from their mistakes (ut exemplo meo plurimi resipiscant ab erroribus).

After this short personal excursion about the meeting with Calvin, Epo pointed out seven – no exhaustive enumeration – tempting promises of the *Secta*, which are illustrative of his attitude toward the Protestants. Time and again he introduced his statements with the words ‘*secta pollicetur*’ (the sect promises). All these promises, which seem to make human life easier, he considered dangerous, deceptive, and apt to lead astray: (1) The sect promises that in the world no one is in conscience subordinated to a superior authority. (2) The sect promises that solely through a strong faith can sins be taken away and this without confession to a mortal person. (3) The sect promises that everyone will be granted salvation as long as he firmly believes himself to be saved. (4) The sect promises that the Kingdom of Heaven is accessible for snorers and drinkers. (5) The sect promises that we will be accepted in grace by our faith and that all types of penance and all the fruits of such penance are foolhardy, superstition, and hypocrisy. (6) The sect promises a life that is pleasant in all respects; if you can believe, all things suddenly become light-coloured, without the hard trials of the truly Christian life for the weak body and the shameless or unmanageable soul, without submission of the proud soul and without restraining the overconfident body. (7) The sect promises that Evangelical freedom is incompatible with all kinds of servitude and therefore no one is bound by duties, despite accepting these of one’s own free will. Furthermore, Boëtius referred to the support of Catholicism by three famous academies: Cologne as the mother, Louvain as daughter, and Douai as granddaughter.

The five syntagms of ecclesiastical antiquities which are dealt with in the volume are the age of the term ‘Mass’ (*de antiquitate Missae*), a historical overview of idolatry (*de idololatria*), the Pope as visible head of the hierarchy (*de hierarchia*), Conciliarism (*de provocatione*), and jubilee and ordinary indulgences (*de iure iubilei et indulentiarum*).

In a letter of 26 March 1578 Epo asked Elbert de Leeuw, alias Leoninus (1518–1598), who was a member of the Council of State, what the best way would be for offering his two-part work to the government: personally or by letter, publicly or privately, after a week or some months, in the presence of the King and the States-General or surrounded by other persons? He also pointed to the fact that he hoped to be an example (*exemplum meum*) for the people of the Northern Netherlands, showing that it is possible to serve again the Catholic Church after taking an erroneous interest in the Reformation.\(^{22}\)

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Leeuw’s answer remained unforthcoming for some time, as appears from a second letter, dated 19 May 1578. In this letter, Epo informed De Leeuw that he had decided to present his work to his friend Nicolas Du Lis, Pensionary of Douai. The latter was delegate of Douai in the States-General. In so doing, Epo intended ‘not to split hairs and to avoid that it would lose all its effect through late delivery’.  

In 1588, Boëtius published his most extensive work, which in fact consists of various writings, all starting with new pagination, but bound in one volume. There are two main title pages. The first, which mentions Douai 1588, has the title *Heroicarum et ecclesiasticarum quaestionum libri VI De iure sacro, vel principiorum juris pontificii, libri III*, which is followed by the subsequent elements: a preface (*praefatio dedicatoria*), an oration entitled *De gente Frisica*, six books of questions, viz. (1) competences of the sovereign, (2) temporal jurisdiction of the church, (3) ecclesiastical immunity (X 3.49), (4) life of clerics (X 3.1), (5) prohibition against clerics interfering in secular affairs (X 3.50), and (6) exchange of prebends. The fifth question has an appendix: the oration *de aureola doctorali*. The second main title page, which does not display a place or the year of the edition, has the title *De iure sacro, vel principiorum iuris pontificii libri III*. The title page is followed by a short instruction for the reader and the three books, dealing with (1) the true purpose of ecclesiastical law (*De vero iuris pontificii fine*), (2) the history of ecclesiastical law (*Historia simul et ars iuris pontificii*) and (3) remarks on the *Liber Extra* (*Paratitla Decretalium Gregorii IX*). These *Paratitla* had already been published, in 1581 and 1582.

Boëtius Epo addressed the *praefatio dedicatoria* to his five sons, viz. Epo, Angelus, Johannes, Thomas, and Petrus. He expressed his wishes concerning the place where he should be buried and suggested a text for an epitaph. He recommended to his sons a distinct way of life, dedicated to Catholicism, in austerity and modesty, and avoiding games of dice or cards. He also recommended pursuing an academic career. The oration *De gente Frisica* had been delivered on 20 December 1587 in addition to a series of *quaestiones quodlibeticae*. Some twenty years earlier Epo was already involved in acquiring materials for this oration. In a letter of 1 March 1567, addressed to the Chancellery and Council of the Court of Gelre in Arnhem, he had asked

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for sentences of the Court and a list of councillors, which he considered helpful for investigating the history of Friesland and the Frisians. The oration de aureola doctorali had been delivered on 4 December 1582. In the instruction to De iure sacro Boëtius excused himself for not having composed an Index rerum verborumque of the works, edited in 1588. Finally, he referred to some writings he had composed but which were not yet ready for publication, such as the Paratitla civilia and In utrumque ius commentarii. The second book of De iure sacro, which contains an external history of canon law, had already been written in 1580, that is, before the promulgation of the Roman edition of the Corpus iuris canonici. In the margin there are, however, some references to this new edition.

Works on Roman Law

Boëtius Epo wrote only one work dealing extensively with Roman law. This was his Commentarii novem testamentarii, published in 1581 and dedicated to King Philip II of Spain. As the title indicates, it is a commentary, composed of nine parts, of which five deal with texts of Roman law from the Digest and the Codex (D. 28,2,29, D. 35,2,91, D. 35,2,86, D. 35,2,22, and C. 3,36,24). Four other parts deal with canon law, that is, with decretals X 3,26,16 and X 3,26,18 and decretals from the title on last wills in the Liber Extra (X 3,26), which had not yet been dealt with in the Antiquitatum ecclesiasticarum syntagmata IV.

Other Works

Furthermore, Boëtius Epo wrote an elegy for Philip II, which was published in 1599. The preface was addressed to the King’s daughter, Isabella Clara Eugenia (1566–1633), heir to the Netherlands Provinces and married to Albert VII of Austria (1559–1621). Boëtius Epo pointed out that the death of a parent is a reason for grief, but that the life of the deceased can be a source of inspiration for further life.

25 These works could be those mentioned by Foppens (Reliquit vero affectos Commentarios IX. selectiores). See Jean François Foppens, Bibliotheca belgica sive virorum in Belgio vitā, scriptisque illustrium catalogus, librorumque nomenclatura (Brussels: Per Petrum Foppens, 1739), 140–141.
26 Oratio funebris nomine totius Universitatis Duacenae piisimis Philippi Secundi Regis Catholicī fundatoris eisdem Universitatis optimi manibus habita tertio novembri 1598 (Douai, 1599).
We have already seen that Boëtius Epo took a clear and firm position against the ideas of the Reformation. However, his main occupation must have been teaching canon law and to some extent also Roman law, and scholarly research in this field. We also see that he participated in the scholarly discourse of his day. Sources reveal that his contemporaries took him seriously as an expert in canon law. In a didactic–lyric laudatory poem on purchase *(de emptione)* Jan Fongers (†1612), rector of the Latin School of Leeuwarden, called him a ‘legal expert in the doctrines of canon and Roman law’.27

During his academic career, Epo ran into conflict with some of his contemporaries. We can mention two examples. In the most extensive part of his *Commentarii novem testamentarii* (1581), that is, his commentary on the *lex Gallus* (D. 28,2,29), he had uttered serious criticism of some statements of the Portuguese jurist António de Gouveia (1505–1566). The debate focused on the question whether a son, having been disinherited, would still remain *filius familias* and *suus heres*. This would have had consequences for the possibility of bringing a *querela inofficiosi testamenti* and thus for children to take a father’s place in the hereditary succession. According to António de Gouveia disinheritance would render the son extraneous.28 According to Epo it did not.29 Epo was in his turn criticized, which made his student Petrus Gilkens (c. 1558–1606) defend his master with even stronger arguments.30 Epo also took a position against the opinion of Johannes Molinaeus (†1575), who in 1561 had edited the *Decretum of Yves of Chartres* (c. 1040–1115), which he considered a better compilation than that of Gratian.31 In *De iure sacro* Boëtius Epo rejected this view.32

The *Decretum Gratiani* was one of the main legal sources Epo focused on. He was in favour of a critical approach toward the texts adopted in this work

29 *Commentarii novem testamentarii*, fol. 57r.
31 Johannes Molinaeus, *Decretum Ivonis Episcopi Carnutensis septem ac decem tomis sive partibus constans* (Louvain: Gravius, 1561).
32 *De iure sacro, vel principiorum juris pontificii*, libri III, 175. See also Friedrich Maassen, *Geschichte der Quellen und Literatur des canonischen Rechts*, I (Gratz: Akademische Druck-U. Verlagsanstalt, 1870), xxxiv–xxxvi.
and regretted that the texts were taken out of context, while the original works were grossly neglected or were lost: ‘Now we have a work which is sadly so perverted, that water from brooklets is given to the sources, while, on the contrary, the sources themselves continuously ought to supply water to the brooklets.’

According to Boëtius Epo, Gratian should, like Isidore, have reproduced the texts according to their chronological order and in their original shape. He proposed arranging the texts according to the original sources. This would also greatly contribute to new editions of the texts of the Councils. Based on the inscriptions in Gratian’s *Decretum*, he produced alphabetical surveys of the various categories of sources: (1) Scripture, (2) Apostolic canons, (3) Papal decretals, (4) Councils, and (5) authors. Furthermore, Epo showed where the canons can be found in the edition of Lorenz Sauer (Laurentius Surius, 1523–1578) or in the compilations of Burchard of Worms (965–1025) and Yves of Chartres (c. 1040–1115). He also noted which canons were not published elsewhere and which canons, adopted by Burchard, Yves, and Gratian, were lacking in Sauer’s edition, and he provided a survey of authorities cited.

Despite his support for a critical approach toward the texts in Gratian’s *Decretum*, Boëtius Epo rejected the idea that the Pseudo-Isidorian Decretals could be spurious, although from 1559 onwards this was already defended by the Centuriators of Magdeburg. Moreover, he considered that Isidorus (Mercator) had been the genuine compiler of the texts, which at a later stage could have been supplemented by others. It is difficult to say what made him take this stand. As we saw, Boëtius Epo was a strong supporter of papal authority and showed an enormous respect and loyalty toward popes Gregory XIII and Sixtus V. This may explain why he was not inclined to consider the *Decretum* of Yves of Chartres, which tended to a more moderate stand in the Investiture Controversy than that of Gratian, to be preferable to Gratian’s compilation. Similarly, this may have prevented him from admitting that the Pseudo-Isidorian Decretals, which greatly supported the central and powerful position of the Roman Pontiff, are spurious.

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33 De iure sacro, 206: ‘Nunc opus habemus (quod ut triste sic praeposterum est), ut ex rivulis aqua supply tetur fontibus; ubi contra fontes ipsi perenniter aquam deebant subministrare rivulis’.
34 De iure sacro, 205.
35 De iure sacro, 211–217.
36 De iure sacro, 220–253.
RECOMMENDED READINGS