

On the Spanish Inquisition

Excerpts from William Thomas Walsh,
Characters of the Inquisition

Chapter 5 Torquemada

As for procedure, [Torquemada] adopted the general forensic practices of his time, and greatly improved upon it. Court was opened with great solemnity and all possible publicity, with all of the people and clergy at High Mass to hear the reading of the edict of grace, usually for forty days. Under Torquemada, there were generally a second and a third edict; [*] and all who came forward and confessed were absolved and given their penances secretly. Only after the third period of grace did the Inquisitors proceed against the unrepentant. They could begin by general inquisition, investigating rumors, “clamorous insinuations” and so on, or by special inquisition of particular errors or persons holding them.

Like Moses and Pope Gregory IX, Torquemada insisted that two witnesses of good repute and apparent sincerity must depose against a person, before a *pesquisa*, or secret preliminary investigation, would be set in motion. The complaints had to be in writing, and signed (later on, under oath), before a notary. No anonymous complaints were accepted. False accusations were severely punished. One of Torquemada’s courts imposed the death sentence on some Jews who had denounced certain *Conversos*, in a spirit of revenge, for offenses of which they were proved to be innocent.

A person denounced by two witnesses was then investigated, usually without his knowledge: his past, his reputation, his ancestry, his business affairs, his associates. If *indicios* were found against him that were “clear, certain, and specific” (all three were necessary) a process was begun, and he was either summoned before a court, or, if his flight seemed likely, arrested. He could be kept in prison only 1) if five witnesses with satisfactory proofs testified against him; 2) with the agreement of the Bishop, the Inquisitors and the fiscal, after the *calificadores* [officers qualified to examine books and writings] had decided that the statements involved were heretical; 3) by a decree of the Bishop, under certain conditions. In any case, the approval of the Supreme Council had to be had before a man could be imprisoned. Finally, two doctors examined him, as to his mental condition.

* In the earlier Inquisition of the 14th century, the first “edict of grace” “orders every Christian, on pain of excommunication, to name whomsoever is regarded as a heretic, including those who are merely suspect. The second grants rebels a period of from two to three weeks within which to come forward and confess their sin. If their heresy has caused no scandal, they will simply be given a penance; if it is notorious, they will have the benefit of an indulgence and will merely be condemned to make a pilgrimage or spend a few days detention, probably in a religious house.” Daniel-Rops, *Cathedral and Crusade* (John Warrington, trans. [New York: E.P. Dutton & Co., Inc., 1957]); pages 547–48.

The prisoner must have a hearing within three days after his arrest. He appeared before the judges, swore to tell the truth, was informed of the charge against him and the grounds for it, and urged to confess and be reconciled. If he refused, he had another hearing after ten days. A third session was granted if he was still obstinate. After that the *interrogatorio* began.

Torquemada's instructions were that in this *interrogatorio*, the Inquisitors were to "cautious, circumspect and charitable," and seek nothing but the truth. They must seek to learn all about his education, upbringing, occupations, friendships, and so on. If he had been corrupted by teachers, books, or a certain place of learning, that must be taken into account as extenuating. Even the crime of heresy was excused in those deceived by a priest of reputed knowledge or virtue, or brought in error by parents, or deluded by *maestros* or prelates of heretical views, before these latter were canonically condemned, or the teachers removed from office. During the *interrogatorio*, there must be present in the room, as defenders of the accused, two ecclesiastical persons, not members of the court. After four days his statement was read to him. He could make any corrections he desires, and have as many hearings as he requested.

The *interrogatorio* concluded, the *Fiscal* [prosecutor] presented his proofs to the Inquisitors, from beginning to end, and asked for judgment according to the law. The accusation, from beginning to end, was then read again to the accused (so we would call him — they called him the *reo*, or criminal), with a pause after each article for his reply, which the notary wrote down what he said.

The accused was allowed counsel, and later on, by the reform of Valdés, the Holy Office had to pay the cost, if the defendant was poor. If he named none, the Court appointed a learned man of good reputation, who took an oath to defend him with zeal, loyalty, impartiality and good faith. This attorney for the defense had access to the minutes of the trial, could rebut the accusations of the *Fiscal*, disqualify witnesses, ask for new information or hearings, and had full access to the accused, who also could see copies of the processes — though the names of witnesses were withheld from him, as in earlier Inquisitions, and for the same reason. He could, however, mention all his enemies, and all who had a motive to injure him, and this must be taken into consideration by the Inquisitors. Many of the interminable delays with which historians have taxed the Spanish Inquisition, were in fact, the result of this privilege. If the machinery was sometimes ponderous and slow-moving, it was because the conscientious Thomists who planned it were anxious to have justice done.

Torture, unhappily, was used. It was taken over with all the rest of the legal *impedimenta* of the time. Yet it is surely ironic that Torquemada should have been made into a veritable symbol of it, when it was one of his greatest achievements to limit and mitigate its use. He made clear that it was not to be used as a means of *punishment*, but to obtain absolute proof of what was already established beyond reasonable doubt, that is to say, there must already be proof *semiplena* against the accused; he must have contradicted himself in serious matters, his bad faith must be evident, or there must be an over-whelming preponderance of witnesses against him. Nor could the instruments of torture be used without a decree of the *fiscal* and the *consultores*, the approval of the bishop of the diocese, and the *visa* of the Supreme Council.

If all of these citizens of good repute agreed that the accused should be subjected to torture, he was examined by physicians to make sure that his physical condition would permit. A doctor must be present when the torture was applied, and at his command it must be stopped.

The method that Torquemada substituted for the more barbarous ones of the Renaissance was known as “the water cure.” The *reo*, if he refused to clarify the contradictions in his testimony, or was strongly suspected of withholding important information, was stretched naked and tied with cords upon a very forbidding-looking *escalera*, or ladder. His nostrils were stopped, his jaws held apart by an iron prong, and a piece of linen placed loosely over his mouth. Into this cloth water was slowly poured, carrying it into the throat. This gave him the fear, and some of the sensations, of suffocation, without allowing him to suffocate. If he squirmed, the cords hurt his wrists and ankles. If he proved very stubborn, one of the *familiars* might give them an extra twist or two. This must have been a very painful and harrowing experience. Yet it seldom did lasting harm, and it often obtained confessions. On the other hand, it sometimes made the innocent confess. Torquemada assumed that the Inquisitors would seek to avoid injustice in this connection by checking the confessions with known facts. Probably the torture was no more dangerous or disagreeable, all things considered, than certain modern police methods, such as keeping a man awake under a strong light, and having him questioned by relays of detectives for an indefinite number of hours. At least it was an advance over the cruder expedients of the fourteenth century....

The next step, after things were running smoothly in Castile, was to organize the new Inquisition in Aragon....

Torquemada then appointed two very able men as Inquisitors for Aragon.... The appointment was virtually a death sentence for both of them. However, they proceeded to do their unwelcome duty, while Torquemada returned to his labors in Castile. [Both were murdered. — RN]

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