

# The Role of Inquisition in Europe

**ISSUE:** What was Inquisition?

**RESPONSE:** Inquisition was a judicial procedure of trial used in the medieval courts of Europe.

**DISCUSSION:** Before discussing inquisitorial courts, it is important to have an understanding of the history and context of these courts. It is also helpful *not* to approach the topic as if no one ever abused the system or as if the system needed no improvement. Remember that the Church and her holy Faith are not the same thing as a kind of court procedure—indeed, some aspects of inquisitorial process are condemned by the Church. You do not necessarily need to defend the legal procedure to defend the Church.

There was never a single inquisition to which the term “The Inquisition” could be applied.<sup>1</sup> *All trial courts in Europe in the medieval era were inquisitorial*, regardless of whether they were civil (state) or ecclesial (church). So if you lived in Paris, the Archdiocese of Paris might have an inquisition and the city of Paris and/or the country of France had a separate inquisition. The inquisitorial trial process was derived from ancient, pre-Christian Roman law and procedure, and *there was no other trial process* in Europe at that time. All people accused of a crime were tried by inquisition.

## Inquisitorial Procedure

Inquisitorial courts were governed, just as modern courts are governed, by strict rules and guidelines. Laws and handbooks for inquisitors were issued by the civil or ecclesiastical authorities both to authorize *and* limit all proceedings. There were rigorously defined protocols and protections for the defendant. Detailed records of evidence, testimony, judgments, penalties, and other acts of the court had to be kept of all proceedings, just like today.

A basic premise of the inquisitorial courts was that no one could be convicted without full proof. In contrast, the common law system of the United States requires proof “beyond a shadow of a doubt” for criminals to be convicted. This is not full proof, and does allow for mistaken convictions. However, to the medieval mind, anything short of full proof was not enough evidence to convict a man.

There were two forms of “full proof” on which a man could be convicted. The first was confession to the crime, the second was the independent testimony of eye witnesses. *No* other evidence was considered “full proof,” and *no amount* of other evidence could add up to “full proof.”<sup>2</sup> For example, if I heard a shot fired in a house and I ran in and found:

- Mr. Smith holding a smoking gun
- Mr. Smith standing over a dead body
- signs of a struggle specifically between Mr. Smith and the deceased
- that Mr. Smith had no alibi
- that Mr. Smith had a strong, well-known motive
- that Mr. Smith was behaving abnormally, as if he might feel guilty

Mr. Smith could not be convicted on that evidence as long as he refused to confess and there were no eyewitnesses to the murder.

Without “full proof” the court was forced to make a difficult decision. The accused might be acquitted for lack of evidence, which was common. If, however, the court believed that the accused was probably guilty (given the quantity or quality of evidence), they might decide to seek a confession through the controlled use of physical pain. No confession would be considered valid, however, if it was not later repeated freely without the pressure of pain.<sup>3</sup> Modern sensibilities are, of course, repulsed by this. Inflicting physical pain to draw a confession from a defendant is considered barbaric and unnecessarily cruel. On the other hand, we must remember that our own court procedures might seem cruel and barbaric to the medieval inquisitor. Convicting a man on evidence that does not amount to “full proof” would appear grossly unjust.

How did inquisitorial procedure work? A citizen might accuse a fellow citizen of a crime. If there was evidence of a crime, the accused would be called and the court would ask if he had anything to confess before he was formally charged. If a man was charged with a crime, he would be allowed an opportunity to confess. If he did not confess, witnesses were called. If eyewitnesses proved his guilt, he was convicted. If they could not, but enough evidence was given to lead the court to believe the man “probably” committed the crime, the court could demand torture be inflicted. If the man confessed under torture, he was given proper attention and later asked to confess without the fear of inflicted pain. If he confessed, he was convicted. If he did not, he was not convicted.

### **The Problem of Heresy**

In ancient times, obstinate heresy<sup>4</sup> was usually dealt with by simple excommunication and avoidance of the heretic. As the Church became larger and Christianity received protection from persecution, heretical groups became more numerous and organized. They also became more dangerous. Obstinate heresy endangered the individual soul, purity of the faith, and the security of the community. In these times (late ancient and early medieval eras), people would literally go to war over the theological difference of “an iota,” so heresy was not a theoretical problem. Some heretics were violent, and *secular opposition to heresy was often stronger than official Church opposition*.<sup>5</sup> Because of the sometimes violent acts of secular authorities, some of the Church’s officials believed they needed to come up with ways (a) to persuade heretics to be reconciled with the Church or (b) when persuasion failed, to coerce heretics, through disciplinary measures, to be reconciled with the Church for the sake of protecting the community.<sup>6</sup> If the Church did not take these precautions, they believed, the streets would overflow with blood.

To make matters more complex, by the medieval era most European countries were predominantly Catholic and governed by Catholics. Catholicism was the state religion of most countries by decree of the king, and obstinate heresy was considered to be a crime *against the state* (treason). This was a state decision in which the Church unfortunately played little or no part.<sup>7</sup> The therapeutic stance taken by the Church, in which the primary goal was to restore heretics to the Christian faith, was very frequently not shared by the state. Kings considered the Pope “lax” because the Church encouraged bringing heretics back into the fold. The strongest denunciations of heresy and the strongest penalties for heresy were those of the state, which usually counted treason-by-heresy a capital offense! Many people are surprised to find that in the 1500’s in northern Europe, for example, the vast majority of heresy trials were civil.<sup>8</sup>

### **Ecclesial Inquisitions**

The ecclesial inquisitions, which were local and not centralized in the medieval era, differed from the basic model (above) in a few ways.<sup>9</sup> When Church inquisitors arrived in an area, their presence was announced publicly. Church inquisitors, unlike civil inquisitors, had the simple primary goal of reconciling wayward Christians with the Church. Reconciliation was the ultimate solution to the problems of heresy. The goal was therapeutic, not vindictive. The inquisitors immediately announced an official “grace period” during which voluntary confessions of heresy and reconciliation with the Church could be made. This period of time was usually two weeks to two months. Voluntary confessions had no consequences except normal penances for sin.

After the grace period, a man officially charged with heresy received a secret trial, though everything had to be recorded by the inquisitors in detail. The accused, who, for fear of retaliation, did not know the names of his accusers, was allowed to draw up a list of his personal enemies. The testimony of any witnesses found on the “enemies list” was considered invalid. The rules of “full proof” were the same. Though ecclesial inquisitors made use of torture to obtain full proof, they considered the physical pain necessary to draw a confession was preferable to the possibility of eternal damnation. Even so, it was used extremely sparingly and the pain inflicted was less severe than the techniques used by civil authorities. As in the case of civil inquisitions, a confession not freely repeated later was considered invalid. If a man eventually confessed and reconciled with the Church, the only sentences were temporal penances like fasting or wearing special garments. Pains or inconveniences experienced during the trial might be considered “time served” and the final penances lessened because of them.

The vast majority of cases resulted in reconciliation with the Church, which was the inquisitors’ primary goal. *Ecclesial inquisitors could not sentence a man to death*, even if he was found guilty and refused to repent. Men who persisted in their heresies and refused to repent might be turned over to the state, so that at the very least peace in the society might be preserved. When this occurred, the Church lost all power over the convicted man, and the State did with him as it pleased. In many instances, the Church opposed the actions of the State over these men.

Particular inquisitorial procedures for dealing with heresy originated in the later Middle Ages in response to the growing heresy of Catharism/Albigensianism<sup>10</sup>. At the Council of Verona in 1184, Pope Lucius III entrusted to the

local bishops the task of ferreting out (*inquisitio*) heretics. Despite the decree of Pope Lucius III, the efforts to address the problem of heresy remained disorganized. Because of the widespread development of Catharism, the secular order in Europe was threatened. By 1231, Pope Gregory IX desired greater uniformity of procedure, so he entrusted the matter of ecclesial inquisitions to papal legates (representatives). Men from the two new mendicant orders—the Dominicans and the Franciscans—were appointed in larger numbers to these positions. These legates were to conduct their inquisitions with the cooperation of the local bishop. Ecclesial inquisitions commissioned by the pope continued in this fashion, mostly in central and Southern Europe, until about the fifteenth century. At that time, secular rulers and local bishops began to again take over the task of prosecuting heresy.

These general ecclesial inquisitions are to be distinguished from the Spanish Inquisition, which was requested in 1481 by the Catholic monarchs of Spain, Ferdinand and Isabella, and approved by Pope Sixtus IV. This particular inquisition was directed against those Jews and Muslims who had accepted Christian Baptism for societal reasons, but who continued to practice their original faith. Since they were baptized Christians, they qualified as *apostates* (those who had renounced the faith of their Baptism). Centralized under a Grand Inquisitor, the Spanish Inquisition followed the same procedure as earlier ecclesial inquisitions. However, the Spanish Inquisition suffered from excessive state control and so tended toward excessive severity. It continued in modified form until the Spanish Revolution of 1820, when it was definitively ended.

The term “Inquisition” can also refer to the Holy Office, one of the Congregations of the Roman Curia. It was organized in 1542 to combat the spread of heresy, and was known as the “Roman Inquisition”. It inflicted upon dissenters purely ecclesiastical penalties (such as excommunication, etc.). The Holy Office continues today in the form of the Congregation for the Doctrine of the Faith.

In short, the Church’s inquisitions were not designed to convert Jews nor could they burn Protestants and witches at the stake (death sentences could not be imposed by the ecclesial inquisitors). These and other such stories about “The Inquisition” are black legends made up by Protestants, Enlightenment rationalists, and other anti-Catholics for a variety of reasons.

### **The Development of Moral Understanding**

As is the case of all legal systems and court procedures, it was possible for abuses to take place within inquisitorial courts. In some cases, this did happen. That abuses take place is true of any kind of trial process, and it is something that just people must denounce and take measures to prevent. Furthermore, current Church teaching explicitly forbids physical or moral violence for the sake of extracting confessions or punishing people, because it is contrary to the dignity of the human person (*Catechism* no. 2297-2298). The Church teaches that such practices are not and were not necessary for maintaining public order, as some people unfortunately once thought.

As new circumstances and situations develop, the Church has to develop and apply new understandings of the objective moral laws that were given to us by God. Sometimes that development takes time. The teaching of Vatican II on religious liberty, the teaching of John Paul II on the dignity of women, and the teaching of Pius XI on atheistic communism are results of nearly 2000 years of doctrinal development, and they call for even more development. With regard to inquisitorial procedure, the Church’s leaders were trying to find the balance between the dignity and rights of the human person and the protection of society from real threats. The Church still had some way to go, but at the same time it was far ahead of the civil governments. Remember, at that time, the inquisitorial trial process was the only trial process in Europe. As in the case of every legal system, even our own in the United States, developing new, more humanistic practices takes time.

<sup>1</sup> Edward Peters, *Inquisition* (Berkeley: University of California Press, 1989), p 68.

<sup>2</sup> *Ibid.*, p 65.

<sup>3</sup> *Ibid.*, p 65.

<sup>4</sup> “Heresy” is a word which comes from the Greek “to choose.” Here it means an opinion, held by a *baptized Christian* (non Christians cannot, by definition, be heretics), which was voluntary, erroneous, public, and persistent. Coercing people to convert to Christianity is (and was) strictly forbidden by the Church’s teaching, but disciplining baptized Christians is acceptable.

<sup>5</sup> Cf. *ibid.*, pp 43, 46.

<sup>6</sup> *Ibid.*, p 44.

<sup>7</sup> Some monarchs openly defied the Church by taking the control of inquisitions from the Church (*Ibid.*, p 102).

<sup>8</sup> “A good deal of inquisition history has been written as if the papal inquisitors were the only ardent pursuers of alleged wrongdoers in thirteenth century Europe. In fact they were always less numerous, and often less ardent than the judicial servants of secular powers” (*Ibid.*, p. 57).

<sup>9</sup> All procedure summaries are based on Peters (cf. *Ibid.* pp. 64-67).

<sup>10</sup> Albigensianism was really a form of the heresy condemned by the early Church called Manichaeism, which rejected the body and matter as evil. This hatred of the body expressed itself alternately in a fanatical asceticism which forbade marriage and encouraged suicide, and in unrestrained sexual activity.

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