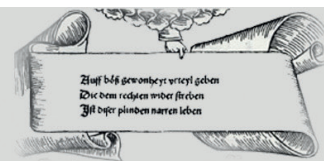




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OF TORQUEMADA

EL PROCESO DE CENTRALIZACIÓN
DE LA INQUISICIÓN ESPAÑOLA
TRAS EL GENERALATO
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Editoriale Scientifica

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THE CENTRALIZING PROCESS OF THE SPANISH
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ESPAÑOLA TRAS EL GENERALATO DE TORQUEMADA

Dopo la morte di Tomás de Torquemada, il nuovo Inquisitore generale, Diego de Deza, proseguì l'opera di uniformazione del Sant'Uffizio, pubblicando Istruzioni a tal fine nel 1500, in cui il processo di centralizzazione era iniziato già durante il mandato del suo predecessore.

Parole chiave: Inquisizione, processo, monarchia spagnola, Deza, Torquemada, istruzioni inquisitoriali

After the death of Tomás de Torquemada, the new Inquisitor General, Diego de Deza, continued with the work of standardizing the Holy Office, publishing Instructions for this purpose in 1500, in which the centralization process begun already during the mandate of its predecessor.

Key Words: Inquisition, process, Spanish Monarchy, Deza, Torquemada, Inquisitorial Instructions.

1. *The organization of the Holy Office: Torquemada's instructions*

The inquisitorial Law represents one of the most specific and broad fields of studies that shapes the History of Spanish Law. In Juan Carlos Domínguez Nafría's words,

¹ This article has been prepared and financed within the framework of two competitive projects: Project «Integración, derechos humanos y ciudadanía global», Convocatoria Pública de Subvenciones para Proyectos de Cooperación Internacional al Desarrollo, 2020, by Municipality of Madrid; and Comunidad of Madrid Convenio Plurianual with the Rey Juan Carlos University, line 1, Program «Estímulo a la investigación de jóvenes doctores», Ref. V793, «Diseño, implementación y análisis de procesos gamificados y serious games para la consolidación de una cultura de democrática de Seguridad y Defensa».

In a purely instrumental way, the Inquisition Law can be defined by: the set of legal norms, from the most diverse rank, both from the power of the Church and from the various legislative bodies of the kingdoms and from the Inquisition itself, which regulated the classification of the crimes within its competence, as well as their constitution, organization and administrative and judicial proceedings. Thus, the constituent elements of the inquisitorial law would be: A) the secular legislation which regulates the crime of heresy, the property confiscated from heretics and the various personal, material, penal and procedural aspects of the Inquisition; B) the general canonical norms on the same matters; C) the doctrine of the jurists, as is proper to any order inspired by the common law, and particularly that drawn up by the so-called “inquisitors”; D) the internal regulations issued by the General Inquisitor and the Council of the Supreme and General Inquisition, constituted first by the Instructions, to which the agreed letters were later added; and E) the inquisitorial custom².

Therefore, the Instructions - with a capital letter, to identify orthographically the specific set of rules that each one of them forms and to differentiate them from their common meaning - are one of the basic elements of the set of legal rules that make up the Spanish Inquisition Law, perhaps the most important one, taking into account their enforcement and spread within the institution itself, since they provided the inquisitors with a stable regulatory framework on which to base the execution of their profession³.

The medieval Inquisition was not a statistical institution, it was ‘more of a discourse, a changing set of laws and norms, practices and instructions, discursive techniques, theology and bureaucracy’⁴, but, in contrast, the Spanish Inquisition showed from its origins a will to institutionalize that resulted in the emergence of internal regulations for its administration and procedure, specified through the Instructions.

² J.C. DOMÍNGUEZ NAFRÍA, *La “copilación” de las instrucciones inquisitoriales de Gaspar Isidro de Argüello*, in *Revista de la Inquisición (Intolerancia y Derechos Humanos)*, n. 12 (2006), p. 138. In this it follows the general directions suggested by A. PÉREZ MARTÍN, *La doctrina jurídica y el proceso inquisitorial*, in J.A. ESCUDERO (dir.), *Perfiles jurídicos de la Inquisición española*, Universidad Complutense, Madrid 1989, pp. 279-322.

³ DOMÍNGUEZ NAFRÍA, *La “copilación”*, cit., p. 139.

⁴ R. VÁLIMÁKI, *The awakener of sleeping men. Inquisitor Petrus Zwicker, the Waldenses and the Rethologisation of Heresy in Late Medieval Germany*, Turku University, Turku, 2016, p. 1.

Torquemada was responsible for drafting the first of these, a task he entrusted to two of his most immediate collaborators, who drafted operational instructions based, above all, on the procedural work of the Catalan Nicolás Eymerich⁵. The text was discussed at a general meeting by the inquisitors of the four existing courts – Seville, Cordoba, Jaen and Ciudad Real – and finally the first instructions of the Holy Office were officially published on 29 October 1484.

Following the scheme outlined by Llorente, the content of the articles in the 1484's Instructions can be summarized as follows:

- The first article regulates the way in which inquisitors must announce their arrival at a town.
- The second, ordered the publication of the edict of grace in the local church, to encourage people to report it.
- The third gave thirty days' grace to expose the heretic to his self; whoever did so was exempted from the confiscation of his goods.
- The fourth established that voluntary confessions in the time of grace should be in written form, made during a hearing with the inquisitors and in the presence of a notary. It also specified that the confession was only valid if the other heretics known to the declarant were exposed.
- The fifth limited the secret absolution to those cases where no one knew of the error being absolved except the one who had committed it and the inquisitor to whom it was confessed.
- The sixth established as possible penances the deprivation of honorary jobs and the use of gold, silver, silk and fine wool.
- The seventh authorized the imposition of financial penalties on voluntary confessors.
- The eighth, in line with the third, stated that whoever confessed after the period of grace would not therefore avoid the penalty of confiscation.
- The ninth established that those minors who confessed and had erred because of their parents would be sentenced to slight penalties, even if they had confessed outside of the time of grace.
- The tenth required that the sentence of a prisoner set the moment

⁵ J.A. LLORENTE, *Historia crítica de la Inquisición en España*, BOE, Madrid 1982, vol. I, p. 146. Eymerich wrote his book around 1360. It was reprinted twice in 1578 and 1585 'by a Roman jurist named Pegna, with special approval from Gregory XIII and the Roman Inquisition' (G.G. COULTON, *The death-penalty for heresy from 1184 to 1921 A. D.*, in *Medieval Studies*, n. 18 (1924), p. 18.

when he had fallen into the error leading to his conviction, which was of great significance in relation to the confiscation of property.

- The eleventh established that the prisoner who was found to be genuinely repentant would receive a commutation of his death sentence to life imprisonment.

- The twelfth, on the other hand, ordered the inquisitors that if they believed that a prisoner's repentance was false, he should be declared a 'fictitious penitent' – a false repentant – and be released to die in the flames.

- The thirteenth extended the previous provision to those who voluntarily but incompletely confessed, hiding their own or other people's crimes.

- The fourteenth article granted the status of an unrepentant defendant to one who was executed without confession by virtue of a conviction.

- The fifteenth article authorized the use of torture on those who were proven to be half guilty⁶. If in torture the accused confessed and later ratified the confession, he was condemned as a convict, but if he contradicted himself it was possible to torture him again. This practice was, over the years, prohibited by the Supreme⁷.

- The sixteenth article established that, in order to preserve confidentiality, prisoners should not be given full copies of the statements of witnesses, but only informed of their contents.

- The seventeenth article ordered the inquisitors to personally interrogate the witnesses.

- The eighteenth forced two inquisitors to be present at the torturing sessions.

- The nineteenth prescribed the condemnation as a heretic of anyone who, being summoned by a court, did not attend.

⁶ The increase in violence - the Crusades, the Inquisition... - was translated into an increase in the use of torture in both secular and ecclesiastical courts, playing a huge role in the witch trials from the 11th century and onwards. The origin of legal torture lies in Rome, where foreigners and slaves could be tortured under certain circumstances. Germanic law did not allow this, except for late codes of Roman influence on very specific matters and generally limited to slaves. In the early Middle Ages its use was very limited and most of the times illegal, until the rediscovery of Roman law in the 11th century (J.B. RUSSELL, *The witchcraft in the Middle Ages*, Cornell University Press, London 1972. p. 152).

⁷ The leading work on the synod is J.R. BESNÉ RODRÍGUEZ, *El Consejo de la Suprema Inquisición. Perfil jurídico de una institución*, Dykinson, Madrid 2009.

- The twentieth authorized the inquisitors to judge the deceased and to apply the corresponding penalties to them.
- The twenty-first authorized the inquisitors to issue censures and even more severe penalties against lords who prevented the court from proceeding in their domains.
- The twenty-second stipulated that the kings would hand over as alms part of what had been confiscated to the children of the condemned who, as a result of their parents' conviction, had been left without maintenance.
- The twenty-third dealt with a very specific case: the property of a heretic who had been reconciled without being subject to confiscation could be confiscated if it came from another heretic who had been sentenced to confiscation.
- The twenty-fourth ordered that the Christian slaves of the reconciled without being condemned to confiscation of goods be declared, despite this, free.
- The twenty-fifth prohibited inquisitors and court officials from receiving gifts, on pain of major excommunication and deprivation of office.
- The twenty-sixth ordered the inquisitors to maintain good relations with each other, without competing to outdo their fellow court members.
- The twenty-seventh ordered the inquisitors to ensure that their junior staff fulfilled their obligations.
- Finally, the twenty-eighth article left everything that was not included in the instructions up to the hands of the inquisitors⁸.

Torquemada's first instructions for regulating the emerging institution show that it is different from the medieval one, otherwise it would have been enough to follow Eymeric. They were reformed several times, but the changes did not alter the nature of their content. On 9 January 1485, Torquemada himself had eleven points published which offered some nuances to the content of the instructions:

- The first established the basic layout of each court: two inquisitors who were experts in the law and of good repute, assisted by a prosecutor, a bailiff, notaries and other officials. They were also required to receive a salary, in order to limit any payments related to the prosecution of causes.
- For those who, in spite of the previous point, charged money from third parties in relation to the process, the second point established that they should be deprived of their office.

⁸ LLORENTE, *Historia crítica*, cit., pp. 147-152.

- The third stipulated that a lawyer 'of good conscience' should be established in Rome to look after the interests of the Holy Office.
- The fourth point stated that contracts made before 1479 by people whose goods were confiscated were valid, but if they were found to be counterfeit, they were condemned to receive a hundred lashes and have their faces marked with a hot iron.
- The fifth, mandated the lords who had given refuge to fugitives from the Inquisition to hand over to the treasury all the goods received from them.
- The sixth, mandated the notaries of the Inquisition to keep books with the registration of goods linked to a process.
- Point 7 authorized the recipients of seized property to sell the property whose preservation was prejudicial, to receive the proceeds of the other seized property and to rent out the property.
- The eighth point stated that each recipient must take care of the goods located in its demarcation, and if in a process affecting it goods included in another demarcation are acquired, it must not manage them, but must notify the recipient to whom it belongs.
- The ninth point established the prohibition for recipients to kidnap property without a written order from the court, and established the obligation that the kidnapping must always be carried out in the presence of a bailiff and that the property must be deposited in the hands of a third person, following an inventory of the property.
- The tenth point was that the receiver would pay the inquisitors' salaries in advance so that they could attend to their maintenance.
- The eleventh and the final one, as stated in the twenty-eighth article of the 1484 Instructions, gave the inquisitors the power to decide on any matter not covered by the regulations⁹.

The clarifications of 1485 were not enough to solve the problems and doubts derived from the inquisitorial activity, and it became necessary to undertake a more extensive reform, which emerged at the request of Torquemada and with the support of the Council of the Supreme on the 27th October of 1488. The new instructions were structured in fifteen points:

- The first ratified the validity of the 1484 Instructions, except for those referring to confiscated goods.
- The second ordered the inquisitors to unify their way of acting.

⁹ Ivi, pp. 173-174.

- The third, that the process would not be delayed while awaiting evidence.

- The fourth ordered the prosecutor to make copies of the proceedings once they had been completed. These were to be referred to the General Inquisitor, to be reviewed by the Council's lawyers or other trusted experts. This point led to the incorporation of lawyers to the Supreme Council, under the name of consultants of the Holy Office.

As indicated by their name, their presence was merely consultative, so they did not have a say in the decision-making process.

- The fifth provided for the isolation of prisoners, allowing contact only with the priests designated by the inquisitors for their spiritual assistance. In addition, the inquisitors must visit the prisons every two weeks, or send persons of their confidence to do so.

- The sixth ordered that only those persons who were strictly necessary be present during the statements, to ensure that secrecy was maintained.

- The seventh required the papers of the process to be located in the same place where the inquisitor resided, guarded in an ark whose key was to be left in the hands of the court notary.

- The eighth ordered that any other process still pending be remitted to the inquisitor who had arrested a prisoner.

- The ninth established that papers and documents that could be useful for the development of their activity should be remitted to other courts.

- The tenth allowed prisoners sentenced to life imprisonment to serve their sentences at home.

- The eleventh ordered to take special care in checking the fulfillment of sentences that involved depriving the descendants of a convicted person of access to the public office.

- The twelfth prohibited abjuration and reconciliation for men under 14 and women under 12, to prevent them from being relapsed later.

- The thirteenth ordered that the king should not be paid his share of the confiscations until the economic needs of the Holy Office had been met with these properties.

- The fourteenth created the houses of penance, establishments where prisoners could serve their sentences for canonical reasons.

- Finally, the fifteenth article ordered the officers of the Holy Office to act on their own behalf and not through substitutes¹⁰.

The life of the 1488 instructions was longer than that of their previ-

¹⁰ Ivi, pp. 176-180.

ous ones, since it was not considered necessary to reform them until 1498, remaining effective for a whole decade. On the 25th of May 1498 the third inquisitorial instructions of Torquemada's government were published, this time consisting of sixteen new articles:

- The first was that each court would be formed by a theologian and a jurist, and that the prisoner could not be sent to prison without the agreement of both. The decision to incorporate a theologian was intended to eliminate the use of raters, but inquisitorial practice prevented this, since, in the end, the courts ended up consisting almost entirely of legal experts.

- The second prohibited employees of the Holy Office from using banned weapons, except in cases directly related to their work. At the same time, the article limited the officers' jurisdiction to criminal cases, decreeing that the Inquisition would not be competent to handle civil cases.

- The third ordered that no arrests should be made before there was sufficient evidence of the crime, and insisted on the need for rapid sentencing without much evidentiary activity.

- The fourth ordered that, in trials of the deceased, efforts should be made to acquit them promptly, in order to avoid damage to their descendants, and that the process should not be continued if there was no clear evidence.

- The fifth ordered that financial penalties be imposed with the same frequency when officers' salaries were paid as when they were still pending.

- The sixth, in accordance with the previous one, ordered to limit the commutation of prison sentences to fines, indicating that preference be given to other forms of penance, such as fasting and similar. It also established that only the General Inquisitor could dispense the sambenito and enable for all purposes the children and grandchildren of the condemned.

- The seventh was that the confessions of those who gave them after being arrested should be carefully reviewed.

- The eighth was that false witnesses should be punished with public penalties.

- The ninth, that there were no relatives performing offices in the same court, even if these offices were different.

- The tenth that each court should keep in a closed archive of deeds with three keys, which should be in the possession of the two notaries and the court prosecutor.

- The eleventh ordered that the notary should not take statements without the inquisitors being present and that those attending the ratifications as honest people should not be members of the Inquisition.
- The twelfth ordered the inquisitors to make visits to villages where there was no court.
- The thirteenth ordered that complex cases be consulted with the Supreme Council
- The fourteenth ordered that men and women should be separated in the prisons of the Inquisition.
- The fifteenth regulated the working hours of officers: three hours in the morning and three hours in the afternoon. This schedule would be shortened in the 18th century, eliminating the afternoon part of the day.
- The sixteenth ordered that the prosecutors should not be present when the witnesses testify and should leave the courtroom after the witnesses swore to tell the truth, at which time the prosecutor should be present¹¹.

This was, therefore, the regulatory framework for inquisitorial activity until Friar Diego de Deza became General Inquisitor.

2. *The Figure of Friar Diego de Deza*

Friar Diego de Deza 'was born in Toro, between the 9th of June 1443 and the 8th of June 1444, as can be deduced from the gravestone of his first sepulchre, which sets his death on the 9th of June 1523 at the age of 80 years.'¹² His origin was to be found in the fusion of notable Galician and Lusitanian lineages, a cradle that already foreshadowed the heights that Deza would reach in the ecclesiastical and political framework of the time.

Diego was twenty-seven years old when he entered the Dominican monastery of San Ildefonso, after completing his studies in Salamanca, during which he coincided with two intellectuals who were called upon to play an important role in the affairs of their time: Antonio de Nebrija and Alfonso de Madrigal. Deza had a meteoric career in the Order of Preachers, which began with his nomination as prior of the monastery of San Esteban in Salamanca, after which he became a professor at the Universi-

¹¹ Ivi, pp. 180-184.

¹² G. ARIMÓN, *La Teología de la fe de Diego de Deza*, Instituto Francisco Suárez, Burgos 1962, p. 33.

ty of Salamanca on 16th of December of 1477, replacing the unorthodox Pedro de Osma, whose students included Deza himself. Osma, a man of fame, fell out of favour when the Catholic hierarchy considered his book *De Confessione* heretical. Deza was part of the congregation that was called to debate the orthodoxy of the work, and he was noted for his favourable stance towards the text. He acted at various times in defense of who had been his professor¹³, stating that, although he could not support his thesis, he did not doubt the righteousness of the author's intention, as erroneous as it was. Osma died before there was a definitive ruling and Deza was awarded the chair of Prima, which he had held on an interim basis for the two years that the process had lasted.

Having become a leading figure within the Dominican Order, Deza was presented to the King and Queen, perhaps during the stay of Isabel and Fernando in Salamanca in 1480, a meeting that would lead to the incorporation of the religious into the Court as teacher and preceptor to Prince Juan, the only male son of the Catholic Monarchs¹⁴.

The Dominican stayed with Juan until the sudden and tragic death of the prince in 1497, witnessing first-hand the process by which the Hispanic monarchy began to overcome the medieval models to enter fully into modernity¹⁵. After the death of Juan, 'the princes named him their chaplain and confessor (...) in October of that same year, as can be seen from the letter that the dean and the chapter of Salamanca were dispatched by the monarchs from Avila on the 2nd of November'¹⁶. There is no sign that Deza left Fernando's confessional before December 1504, when he was appointed archbishop of Seville, the high point until then of

¹³ D. COTARELO Y VALLEDOR, *Ensayo biográfico sobre fray Diego de Deza*, Imprenta José Perales y Martínez, Madrid 1902, p. 61,

¹⁴ Joseph Pérez believes that Deza was also Isabel's Latin teacher: 'Much later, after she became queen, in 1482, she found time to learn Latin with masters such as Diego de Deza, Pascual de Ampudia and Andrés de Miranda, the three Dominican monks, and not with Beatriz Galindo, the Latina, as legend has it' (J. PÉREZ, *Isabel and Fernando: los Reyes Católicos*, Nerea, Madrid, p. 76-77).

¹⁵ On this process see M. FERNÁNDEZ RODRÍGUEZ Y L. MARTÍNEZ PEÑAS, *La guerra y el nacimiento del Estado Moderno*, Veritas, Valladolid, 2014; and *Guerra, Ejército y construcción del Estado Moderno: el caso francés frente al hispánico*, *Glossae. European Journal of Legal History*, n. 10 (2013), pp. 254-276; M. FERNÁNDEZ RODRÍGUEZ, *Comparative Study on Institutional and Military Changes in XV Century Europe*, in *International Journal of Legal History and Institutions*, n. 3 (2019), and *Guerra y cambios institucionales en el contexto europeo del reinado de los Reyes Católicos*, in *Revista de la Inquisición, Intolerancia y Derechos Humanos*, n.º 18 (2014), pp. 129-157.

¹⁶ COTARELO Y VALLEDOR, *Ensayo biográfico*, cit., p. 107.

a series of ecclesiastical appointments had begun on 14 April 1494, when Deza was given the miter of bishop of Zamora, moving two years later to the diocese of Salamanca. Another two years he was in the city of Tormes, since in 1498 the Kings granted Fray Diego the bishopric of Jaen. Jaen would be followed by Palencia, one of the dioceses that contributed the most income to its owner, and where the Dominican arrived in 1500. He still had one last step to take: Charles V appointed him Archbishop of Toledo, the highest miter in Spain, but Friar Diego Deza, who was over seventy-five years old at the time, resigned from the post, dying on 9 June 1523. With regard to what has transcended from their work as bishops, 'it seems that they were, in general, successful in the fulfilment of their high ecclesiastical offices'¹⁷.

Despite his ecclesiastical and courtly career, both of which are remarkable in themselves, if Friar Diego de Deza is remembered for anything, it is for his work as General Inquisitor, a position in which he succeeded Friar Tomas de Torquemada. His appointment was signed by Alexander VI, Pope Borgia, on the 1st of December of 1498, however, against the wishes of the Catholic King, Deza was only appointed General Inquisitor for the Kingdom of Castile, while his predecessor had been appointed General Inquisitor for both Castile and Aragon. Fernando's diplomatic pressure finally took effect in Rome and Deza's appointment was extended to the Crown of Aragon on first of September of 1499¹⁸, which did not put an end to the problems regarding the position: the pontifical appointment restricted Deza's powers in comparison with those that Torquemada had enjoyed. Once again, peninsular diplomacy was set in motion in Rome, forcing Alexander VI to complete the papal bull with a series of letters that extended Deza's powers as General Inquisitor¹⁹.

Deza's generalship is a good example of how a lifetime's work can be damaged by what happened in just a few years. The performance of Fray Diego as Inquisitor General was a fatal stain on his name in the eyes of posterity, as it was under his command that the outrageous and venial action of the Inquisitor Lucero of Cordoba took place, who had the support of his Inquisitor General. Lucero prosecuted and burned several hundred people in the space of a few years, acting with a feroc-

¹⁷ ARIMÓN, *La Teología*, cit., p. 34.

¹⁸ Archivo Histórico Nacional, *Códices, Bulario de Inquisición*, 174b, fol. 12.

¹⁹ B. LLORCA, *Bulario pontificio de la Inquisición española en su periodo constitucional (1478-1525)*, Pontificia Universidad Gregoriana, Roma, 1949, pp. 206-212.

ity that no other inquisitor or inquisitorial court approached in the centuries that followed. Only the arrival in power of Felipe el Hermoso, in June of 1506, weakened Deza's political support and, indirectly, ended the impunity with which Lucero had acted until then. This is how Kamen narrated the horror that Lucero's performances awoke in flamenco:

An independent investigation by the Cordovan authorities, carried out in November [1506], concluded that Lucero's evidence against her victims was all falsely fabricated; that Friar Diego de Deza, Archbishop of Seville and General Inquisitor, had failed in his duty by not responding to the requests made against this inquisitor; that four hundred innocent people were imprisoned at that time in the dungeons and that Lucero had deliberately sent the greatest number of victims - 120 people were burnt alive by car in December 1504; 27 in another in May 1505 - to prevent them from making their complaints known to the new King of Castile, Felipe the Handsome²⁰.

Felipe, partly because of his rejection of the inquisitorial abuses, but even more because of Deza's political ties with his rival Fernando el Católico, forced the General Inquisitor to delegate to Diego Ramírez de Guzmán, Bishop of Catania - since the office was for life and a resignation or dismissal in the full sense of the terms was not contemplated - and ordered Lucero to be replaced, who, on learning that a visit was to take place along with his dismissal to review the proceedings under way as well as those already closed, ordered the execution at the stake of over one hundred and fifty prisoners, which only the timely arrival of the Regent's orders managed to avoid²¹. The Inquisition would not know another such figure of fury until its practical dissolution in 1820 and its definitive dissolution in 1833²².

After the unexpected and sudden death of the Archduke, on 25th of September of 1506, Friar Diego revoked the delegation he had

²⁰ H. KAMEN, *La Inquisición española*, Planeta, Barcelona 2008, p. 91.

²¹ Archivo General de Simancas, *Patronato Regio, Inquisición*, leg. único, fol. 46.

²² On the historical framework in which this dissolution took place see M. FERNÁNDEZ RODRÍGUEZ, *Hombres desleales cercaron mi lecho. La consolidación jurídico-institucional del Estado liberal*. FUE, Madrid, 2018; *Las tres Españas de 1808*, *Revista Aequitas*, n.º. 11 (2018), pp. 45-68; *La construcción jurídico-institucional del ejecutivo de Evaristo Pérez de Castro: Fernando VII frente al gobierno*, in *Aequitas*, n. 16 (2020), pp. 411-435.

made to Diego de Guzman, taking advantage of the fact that it had not yet been confirmed by the Pope, which allowed him to regain his powers as General Inquisitor without confirmation or ratification by any other authority. Since one of his first decisions when he regained his powers was to restore Lucero to his position as inquisitor of Córdoba, the population of the city, led by the Count of Cabra and the Marquess of Priego, stormed the Alcazar, the headquarters of the Inquisition, on the 8th of November 1506. It caused Lucero to flee and provoking a call for help from Granada's troops to suppress the insurrection. However, the captain general of the kingdom of Granada, the Count of Tendilla, having found out the reason for the uprising, refused to send troops to help restore Lucero to his headquarters.

In view of the tense situation generated in Córdoba, Fernando felt that the time had come to get rid of Deza. Behind the back of the General Inquisitor, he began to negotiate his succession with the Pope, ensuring that, once Deza was removed, the Inquisition in the Crown of Aragon would be left in the hands of one of his most trusted men: the Bishop of Vic, Friar Juan de Enguera, the monarch's confessor, who would indeed receive this appointment after Deza's resignation²³. In Castile, for its part, the leadership of the Inquisition ended up in the hands of Cisneros, leaving the institution once again divided²⁴.

3. *The inquisitorial instructions of 1500*

As General Inquisitor, Diego de Deza drafted new instructions only two years after the last of Torquemada's instructions were published. They were born in Seville, where the General Inquisitor was Archbishop, on the 17th of June of 1500, as the introduction to them points out:

The underwritten capitulations ordered by the most reverend lords general inquisitors for the instruction of the inquisitors and the continuation of the office of the Holy Inquisition in the very noble and very loyal city of Seville, on the seventeenth day of June, the year of one thousand and five hundred.

Of the six articles that made up the Instructions, it is worth high-

²³ Archivo Histórico Nacional, *Códices, Bulario de Inquisición*, 174b, fol. 13.

²⁴ Archivo Histórico Nacional, *Códices, Bulario de Inquisición*, 174 b, fol. 15.

lighting the fourth, which orders that people should not be arrested for minor matters – such as blasphemy and other similar offences – and the fifth, which encourages the resolution of cases where this is possible by means of canonical compurgation in front of twelve witnesses. The sixth and last one established that whoever abjured de vehementi should, in addition, persecute and denounce heretics as good Christians. If he did not do so, the Inquisition would have arrested him and judged him to be a relapse²⁵.

The first article stated that:

Firstly, let the inquisitors of every inquisition and party go out and go to all the places and villages of their dioceses, and parties where they never went personally, and let each of the said villages and places do and receive the witnesses of the general inquisition, so that they may better do and more briefly be issued. The inquisitors should step aside and each one of them should go with a notary public to receive the said investigation and general information. They should then meet in the city or place where they were based so that, seen by the testimony that each one has taken, they can order those who are guilty to be arrested and testify sufficiently to be able to be arrested, in accordance with the instructions given in Toledo.

The core of this article could already be found in Torquemada's last Instructions, those of 1498, so in practice, with regard to this issue, Deza was merely introducing a new feature with regard to the way in which the visit could be conducted, by authorizing it to be carried out by a single inquisitor, instead of by the whole court. In practice, this only meant an accelerated physical act of the visit, without modifying the fact that in order to carry out the subsequent procedural actions the processes, since, as the normative text establishes, even if only one inquisitor could carry out the visit, he had to meet with his colleagues to decide the subsequent progress of the process²⁶.

²⁵ LLORENTE, *Historia crítica*, cit., p. 184.

²⁶ The canonical legislation prohibited the same person from being both judge and instructor, in line with Gratian, but Pope Innocent III issued a series of papal bulls removing the prohibition, which was confirmed by the Fourth Lateran Council. The accused of serious crimes, as heresy, was obliged to answer the judge's questions under oath (RUSSELL, *The witchcraft*, cit., p. 154).

The second point of the instructions affected how to carry out the visits:

Item, that in the inquisitions where the inquisitors have gone and received the general testimony that every year one of the inquisitors goes out to the towns and places to inquire, putting up his general edicts for those who know something about the crime of heresy that comes to say it. The other inquisitor stays to do the processes that at the time there would be, and if there is not any process, each one goes out according to what is said above.'

The third point did not depart from the same subject, and pointed out the role of the public prosecutor and the notaries in the procedure, as responsible for keeping the documentation up to date so that the inquisitor did not lack the necessary information during his visit:

Item, that the inquisitors of each inquisition pass the books ordinarily through their alphabets from the first to the end, for which they are helped by the public prosecutor and notaries when they do not go around the places to take the testimony as said is. This chapter should be the main focus of the visitation so that the general inquisitors know what has come from the alphabets.'

Point four, on the other hand, addresses a completely different issue:

Item, since inquisitors sometimes proceed by light things non-heresy rightly and by words that are more blasphemies than heresies, or said in anger or wrath, that hereinafter none of this quality is taken. In addition, if there is any doubt they should consult with the general inquisitors.

There are two issues to highlight at this point. The first, which forms the core of the article, is the recommendation to abstain from arresting for infractions of a "light" nature, as well as for mere blasphemies that do not have a heretical background, but respond to a moment of heat. The inclusion of a measure of this nature indicates that the workload borne by the courts must have been very high in relation to their capacities, which made it advisable not to waste energy on cases, which, deep down, did not involve a truly heretical belief. In contrast, later on, as the number of heretics, Judaizers and other

categories of serious offenders diminished, the Holy Office did not hesitate to initiate hundreds, if not thousands, of trials motivated by mere blasphemy.

The second issue that stands out in this fourth point of the 1500 Instructions, which we will return to in more detail later, is the fact that the inquisitors are called upon to go to the General Inquisitor in case of doubt. With this, there was a way in which the General Inquisitors began to intervene directly in the development of the causes, not by establishing the general frameworks of action of the Holy Office, but by means of concrete decisions applicable to specific cases. That is to say, the fourth point of Deza's Instructions makes it possible for the General Inquisitor to intervene in individual processes, in this case as a sort of consultant in doubtful cases.

With this last question, he links the fifth point, which states that:

When you arrest someone for the said crime of heresy, send a copy of the accusation to the general inquisitors and the evidence you have against him *verba ad verbum*, stating the names of the witnesses and the qualities of the people, and send this with the announcement of the inquisition for safekeeping.'

In other words, the fifth point establishes the obligation of the courts to inform the General Inquisitor of each and every trial for heresy that is set in motion, and not in a generic or *grosso modo*, but by sending the official text of the accusation, the witnesses that support it and the quality of these witnesses.

In this case, it was not an absolute innovation within the Inquisition's operating field. The fourth point of the 1488's Instructions already ordered the prosecutor to make copies of the procedures once they had been completed. These copies were to be referred to the General Inquisitor; to be reviewed by the Council's lawyers or other trusted experts. The measure was of great importance for the organization of the Holy Office, since it led to the incorporation of lawyers into the Council of the Supreme Court, under the name of consultants to the Holy Office, thereby significantly altering its composition. Despite the fact that, as its name suggested, their presence was merely consultative and they did not have a say in the decision-making process. What point five of Deza's instructions implied was therefore not entirely new, but it did represent a qualitative step forward: the Inquisi-

tor General would no longer be limited to reviewing closed cases, but would be informed as soon as the accusation was made, that is, at a relatively early stage of the process and, in any event, long before it was substantiated by a sentence.

The sixth point has attracted a great deal of attention in historiography, as it is a call for a speedy trial, that is, for summary action, an appeal on which much of the criticism of the inquisitorial system has been based, assimilating summary action with the suppression of all the elements of defense of the prisoners²⁷. The text of the Deza Instructions in no way speaks of restricting the rights of the defendant, but only of abiding by the abbreviated procedural forms when the legislation allows it:

Item that the inquisitors do not consent to delay in the proceedings and proceed summarily according to the form of law which in this case speaks of heresy.’

Once again, this is not a new claim under the inquisitorial instructions. The same call was contained in the Torquemada’s Instructions of 1498, which, in turn, took the basic notion from Article 21 of Nicolas Eymerich’s Directorate of Inquisitors, which stated that the judge must act without delay. In fact, in the following centuries, the shortest possible proceedings within the limits set by the law have been one of the greatest battles for the exercise of justice, in accordance with the ideas of Beccaria, who stated that justice that is slow is not fair.

The seventh point stated:

Item, that the inquisitors hereafter do not dispense with those who are sentenced to life imprisonment or commute the said imprisonment in-

²⁷ On the perception of the Inquisition, see E. PRADO RUBIO, *The inquisitorial torment and audiovisual representation of judicial torture*, in *International Journal of Legal History and Institutions*, n. 5 (2021); *Inquisitorial process in Arturo Ripstein’s film: “El Santo Oficio”*, in *Ihering. Cuadernos de Ciencias Jurídicas y Sociales*, n. 3, (2020); *Here is the Story of Satán. The inquisitorial process through cinematographic fiction*, in *International Journal of Legal History and Institutions*, n. 4 (2020); *An Approach to the Inquisition Representation in Audio-visual Fiction*, in *International Journal of Legal History and Institutions*, n. 3 (2019); *Proceso inquisitorial en El Santo Oficio de Arturo Ripstein*, in *Glossae*, n° 16 (2019); *El tormento inquisitorial y la representación audiovisual de la tortura judicial*, in *Revista de la Inquisición (Intolerancia y Derechos Humanos)*, n. 23 (2019).

to another penitence and when this power to dispense and commute the said imprisonment the said general inquisitors reserve for themselves the said power and authority, which no other can dispense and commute.

This point modified what had already been established in point 6 of the previous Instructions, which prohibited inquisitors from commuting prison sentences to economic fines. The modification, however, is significant: these sentences can no longer be commuted, but only the General Inquisitor is empowered to do so, first taking this power away from the courts and then handing it over to the head of the Inquisition, who had already been given the exclusive power to commute *sambenito* sentences into pecuniary fines through the previous Instructions.

The eighth point refers to two procedural elements, secrecy and compurgation:

Item, that the compurging witnesses are not to be read the sayings and discussions of the witnesses of the crime against the accused in the prosecution's indictment, but to keep the form of law which is that the accused has to swear *juxta forma juris* denying the crime of what he is settling, in front of the said compurging witnesses, and that they are asked whether they believe that he swore truthfully or not, without asking them any other questions

Although secrecy is one of the elements with the greatest presence in the Inquisitorial Instructions, starting with the first ones enacted by Torquemada in 1484, the truth is that this article is the first to mention compurgation as part of the Inquisitorial process. In a sense, compurgation is a kind of vestige of the medieval process in which God was part of it, as a judge, since it is God who punishes false or broken oaths, not a human power. In most cases, the inquisitorial process suppressed this position of the divinity as judge of the human process, which was common in medieval justice through legal formulas such as ordeals or trials by combat, based on the notion that God would deliver the triumph to the party who was right. Compurgation is one of the few remnants that survive in the modern inquisitorial process of this role of God as an active part of the judicial process, and its importance declined over the decades, becoming less and less common.

The ninth point of Deza's Instructions brings the Inquisition back

to its primary function, which is to save souls, by insisting on the importance of sincere confession and repentance, the only way to achieve salvation for those who had fallen into errors of faith²⁸:

Item, the inquisitors shall work with the accused who will be well testified so that they may be condemned as they make knowledge of their guilt, confess it and repent, bringing them persuasion to do so and if necessary bringing in religious persons who will convert them and with whom they will not be testified, be careful not to make them confess what they did not do.

The last point reflects the importance of the denunciation within the operation of the Inquisition, but emphasizes the need for the information to be properly documented. The confession was not considered sincere and complete, that is, valid, if the prisoner did not denounce the heretics he knew. The Instruction of Deza specifies the importance of this type of denouncement, by establishing that it must be recorded in a document different from the general confession of the prisoner:

Item, that the inquisitors should particularly ask those persons who give their confessions what they know of their parents, brothers, sisters, relatives and of any other persons for the specifics that are required because they cannot later excuse themselves for ignorance, and that what they say of others should be recorded in the books and records of the office apart from the said confessions.

One of the most important elements incorporated in the Seville Instructions of 1500 was the reinforcement of the centralization of the Inquisition in the figure of the General Inquisitor. Three of the ten articles incorporate purely centralizing measures:

- The fourth orders the inquisitors to consult the General Inquisitor in doubtful cases because of the lightness of the offence.
- The fifth orders that copies of the indictment and the quality of the witnesses be handed over to the General Inquisitor.
- The seventh grants the General Inquisitor exclusive power to commute life imprisonment sentences to financial fines.

²⁸ About the public punishment of whipping, see the article of M. FERNÁNDEZ RODRÍGUEZ, *La supresión de la pena de azotes*, in E. SAN MIQUEL, *Integración, Derechos Humanos y Ciudadanía global*, Aranzadi, Pamplona 2021.

4. *Instructions and centralization*

If we compare it with the previous instructions, we find that 30% of the 1500 rules reinforce, in one way or another, the role of the General Inquisitor (three out of ten points), compared to none of twenty-seven in the 1484 instructions, none of eleven in the 1485 explanatory points, one of fifteen in the 1488 instructions and two of sixteen in the 1498 instructions. It should be borne in mind that each new point that gave power to the General Inquisitor was added to the existing ones, so that the inquisitorial instructions up to 1500 not only added more and more centralizing measures, but also added them more and more rapidly.

Another fact confirms the centralizing tendency of inquisitorial instructions in general and those of Deza in particular. The article published in Seville in 1500 did not include the final article that was included in Torquemada's first two instructions, in 1484 and 1485, indicating that for everything not established in the articles of the Instructions, the inquisitors could decide according to their own criteria. This clause disappears from the inquisitorial instructions in 1488, and would not reappear in the future, which can be understood as an implicit curtailment of the inquisitors' power to fill the legal gaps - which are otherwise increasingly minor - by themselves and without the central organs of the Inquisition: the General Inquisitor and the Holy Office.

Another interesting aspect is the fact that the 1500 Instructions are focused entirely on questions of the functioning of the inquisitorial system, both procedural and substantive, two concepts that are difficult to define. As they have been taken for the present work, if we understand as procedural the questions of general order of the inquisitorial activity prior to the existence of an accusation, denouncement or complaint that identifies the offender. For their part, the parts of the inquisitorial action that affect a specific person or persons as accused or denounced for specific facts, will form part of the process. To give an example, the regulation of visitation or the division of jurisdiction between district courts would be procedural issues, while the questioning of a defendant or his or her torment would be processual issues²⁹.

²⁹ On the process in general, the reference texts to date are G. MARTÍNEZ DÍEZ, *La estructura del procedimiento inquisitorial*, in AV.AV., *Historia de la Inquisición en Es-*

Having made this clarification, broadly speaking the ten points of the 1500 Instructions are divided equally into procedural rules and processual rules, with each of these fields covering exactly half of the points, five. Here again, this is a remarkable element if we compare the information with that of the 1484's Instructions, where the most numerous element was the measures referring to the penalties.

In this case, the most logical explanation is the gradual establishment of the Holy Office in the Hispanic institutional framework. The first instructions were very focused on providing the Inquisition with the essential elements of its legal nature, a special court³⁰. Therefore, the most important matter in the first instructions are the regulations on penalties, the first issue that a court has to clarify in order to be able to function. In a sense, the 1484's instructions are an elementary criminal code for the inquisitorial courts³¹. Another element present in the initial instructions and disappearing between 1488 and 1500 are the jurisdictional matters³². In this case, this type of rules would reappear decades later, as its initial groups of victims almost disappeared, the Inquisition tried to broaden its range of action, clashing with various jurisdictions³³.

paña y América, BAC, Madrid 1993; and B. AGUILERA BARCHET, *El procedimiento de la Inquisición española*, in the same book.

³⁰ About the special jurisdictions you can see M. FERNÁNDEZ RODRÍGUEZ, *Estudios sobre jurisdicciones especiales*, Veritas, Valladolid, 2015; *Reflexiones sobre jurisdicciones especiales*, Veritas Valladolid, 2016; *Análisis de jurisdicciones especiales*, Veritas, Valladolid, 2018; and *Especialidad y excepcionalidad como recursos jurídicos*, Veritas, Valladolid, 2018.

³¹ Domínguez Nafría disagrees with this reading, stating: 'The Instructions did not define crimes against the faith. In this regard, they were not part of criminal law, but were intended to regulate the inquisitorial organization and many other procedural aspects' (DOMÍNGUEZ NAFRÍA, *La "copilación"*, cit., p. 141). However, the setting of penalties for different offences – or, if you like, sins – does not seem to be able to be labelled as a mere procedural or organizational matter, and rather seems to possess a certain criminal nature.

³² The crimes included in the inquisitorial jurisdiction had been the subject of controversy since the middle Ages, particularly on matters such as witchcraft. See E. PRADO RUBIO, *La inclusión de la brujería en el ámbito competencial inquisitorial*, in *Revista de la Inquisición (Intolerancia y Derechos Humanos)*, n° 22 (2018); *Stereotypes about the inquisitorial persecution witchcraft*, in *International Journal of Legal History and Institutions*, n. 2 (2018), and *Estereotipos referidos a la persecución inquisitorial de la brujería*, in *Aequitas, Estudios sobre Historia, Derecho e Instituciones*, n. 13 (2019).

³³ This type of conflict was not exclusive to the inquisitorial jurisdiction. Three examples in completely different areas can be found in the work of Manuela Fernan-

5. Conclusions

It seems that it can be inferred without any fear of error that Deza's instructions continue with the emerging tendency towards centralization that is beginning to show in Torquemada's latest regulations. In this regard, a summary of the previous pages and conclusions can be given:

- The instructions contain specific centralizing measures, which establish exclusive prerogatives of the central bodies.
- The instructions are in themselves an expression of centralization, whereas they eliminate large areas of the discretion of the inquisitors and other inquisitorial offices, whose actions are contained in regulations that are not drawn up on the edges of the institution – the courts on the ground – but in its central administrative nucleus – the generalate and the council –.
- The inquisitors' discretion over what is specifically regulated in the instructions, contained in the initial instructions, disappears in the subsequent ones, something that can be considered an implicit centralization phenomenon, as this capacity is removed from the hands of local officials.
- All the expressly centralizing measures of the period under analysis attribute powers to the General Inquisitor, but there are no measures that expressly grant them to the Council of the Supreme, so it can be understood that institutional centralization adopted the path of strengthening the powers of the former to the detriment of the latter.

By attempting a reasonable explanation of the process of including centralized regulations in the inquisitorial instructions, a paradigm change in the nature of the authority of the General Inquisitor could

dez Rodríguez in recent years: *La administración central del Protectorado (1936-1956)*, in AA.VV., *La administración del Protectorado de Marruecos*, BOE, Madrid 2014; *El control económico en la jurisdicción militar: el ejemplo de dos veedores generales del ejército de Flandes*, in Av. Av., *Estudios sobre jurisdicciones especiales*, Veritas, Valladolid, 2015; and *Espacio de libertad, seguridad y justicia: negociaciones de la orden de detención europea*, in *Glossae*, n. 12 (2015), pp. 263-287. About the conflict in Flanders, see E. PRADO RUBIO, *Propuestas jurídicas para el restablecimiento del orden y la legalidad institucional en Flandes durante la transición hacia el gobierno de Alba*, in *Glossae*, n. 18 (2021); and *Conflictos jurídico-institucionales y dificultades económicas en la lucha contra los rebeldes en los Países Bajos: los advertimientos de fray Lorenzo de Villavicencio (1567)*, in *Revista Aequitas. Estudios sobre Historia, Derecho e Instituciones*, n. 16 (2020).

be noted, moving from a personalized model in which the powers of the General Inquisitor were based above all on the charismatic strength of his personality and figure, to a model of institutionalized authority, in which his powers and responsibilities are regulated and embedded in a regulated administrative framework. This seems to be indicated by the fact that the centralizing measures began to be introduced during the old age of Friar Tomas de Torquemada and gained strength after the death of the charismatic first inquisitor, under the authority of Friar Diego de Deza, whose exercise of inquisitorial power was much more questioned and in a political environment less like the one enjoyed by Torquemada. This process of degradation of personalist authority – due to the old age of Friar Tomas and the less solid position of Friar Diego – could well have encouraged the search for a normative consolidation of their respective authorities, which would have coincided, moreover, with the general tendency towards institutionalization that the Holy Office was experiencing once it had passed its foundational stage.