



A representation of the *auto de fe*, the burning of heretics following the pronouncement of judgment. Image © 2003-2004 Clipart.com.

Inquisition

by Cristian Berco

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The Inquisition in its various guises--papal, episcopal, national--evolved from the medieval *inquisitio*, a clerical court designed to combat heresy. The Spanish Inquisition was established in 1478; the Portuguese Inquisition in 1536. The main goal of the Inquisition was the investigation and punishment of heresy and apostasy.

Although homosexual acts, grouped under the rubric of sodomy, alongside other "unnatural" practices, were deemed an unspeakable sin often associated with heresy, its prosecution normally lay outside inquisitorial parameters. Under special circumstances, however, various inquisitorial courts did try sodomy. Indeed, it is estimated that between 1570 and 1630 there were nearly 1,000 sodomy trials before the Aragonese Inquisition and almost 500 sodomy trials under the Portuguese Inquisition.

The Case of Eleno de Céspedes

In 1588, the inquisitors of Toledo--in a well-publicized case--accused Eleno de Céspedes, a transgendered former slave married to a woman, of sodomy. Eleno/a supposedly violated communal norms by living as a man. Moreover, s/he allegedly utilized a phallic instrument to penetrate other women--the one instance of lesbian sexuality legally considered sodomy.

Although Eleno/a claimed to have been a man and ushered many witnesses to confirm this claim, inquisitors delivered a severe sentence. Removed from society, after suffering public humiliation and two hundred lashes, Eleno/a was to serve in a hospital for ten years. Though patently sensational, this case was anomalous, as Toledan inquisitors and other Castilian tribunals were generally prohibited from trying sodomy.

Jurisdictional Disputes

Under both canon and civil law, sodomy fell to the jurisdiction of episcopal and secular courts. Not strictly heresy, sodomy lay outside the inquisitorial sphere. Only two inquisitions tried sodomy on a regular basis, thanks to special papal or royal dispensations: the Aragonese tribunals after 1524 and the Portuguese Holy Office starting in 1553.

A religious and legal construction, sodomy encompassed both more and less than male and female homosexual eroticism. A catch-all for various "unnatural" acts, sodomy could be invoked to prosecute bestiality, anal sex (regardless of the partner of choice), oral sex, mutual masturbation, and sex with dildos.

Thus, heterosexual couples could be tried for sodomy. In a few instances in the Aragonese tribunals, women accused their husbands of anal rape and inquisitors duly tried them.

Similarly, inquisitors in these jurisdictions regularly prosecuted male homosexual behavior. In addition to

anal sex, other erotic acts were classified as *mollicies* (effeminacies) and were prosecuted as logical precursors to sodomy. However, because the prosecution of lesbian sexuality necessitated the existence of a device by which one of the partners usurped the male role, few cases of same-sex acts between women ever made it to court.

The great majority of the sodomy cases tried by the Portuguese and Aragonese inquisitions involved men engaged in same-sex amorous behavior, followed by a number concerned with bestiality, and a few heterosexual cases.

Aragonese Tribunals

Inquisitors in the Aragonese tribunals--Valencia, Barcelona, and Zaragoza--obtained a special bull from Clement VII in 1524 granting them jurisdiction over sodomy. In a twist, that would direct the procedural development of sodomy trials away from normal cases of faith, the Pope stipulated that sodomy be tried according to local laws.

Thus, a trial for sodomy constituted a mixed judicial enterprise, combining both features of inquisitorial procedure and secular law. While suspects could be tortured, if they withstood it without confessing, they were often absolved, following local law. Likewise, suspects were divulged the names of their accusers and witnesses for the prosecution, a feature not present in heresy cases.

The pattern of persecution apparent in the more than 500 homosexual sodomy cases tried in the Aragonese tribunals highlights specific local concerns and animosities. Most cases involved adult men allegedly sodomizing adolescent boys. While this fact reflects the long-standing construction of Mediterranean sexuality, in which an adult male penetrates a younger partner, it also demonstrates the local contingencies affecting prosecutions.

Preoccupied with the protection of local adolescents, denouncers focused their wrath on outsiders to local communities. Thus, clergymen--not members of the municipal corporation--suffered a high degree of accusations. More importantly, foreign men--mostly Italian and Frenchmen--were disproportionately singled out as alleged sodomizers. This pattern evinces a system of persecution anchored to local sexual and moral economies and contingent upon understandings of community.

The Portuguese Inquisition

The Portuguese inquisition's involvement with sodomy differed from its Aragonese counterpart in procedural matters. While Aragonese inquisitors had to allow elements of local law to enter trial procedure, Portuguese magistrates--once having obtained jurisdiction over the crime--proceeded against it with the full force of inquisitorial judicial power.

Most importantly, and paralleling cases of heresy, inquisitors withheld the names of accusers and witnesses from the suspect, thus removing one of the few advantages that the defense had in the Aragonese Tribunals. Otherwise, the same preoccupation evinced in Aragon concerning social status emerged in this tribunal.

An analysis of Luiz Delgado's trials for sodomy in both Brazil and Portugal between 1665 and 1692 evince a system of persecution based on threats to social order. Allegedly having young lovers whom he sustained, this man of considerable wealth attracted the attention of authorities because he allowed familiarity with social inferiors. That an adult would allow a young man sometimes to sodomize him and treat him in a familiar fashion unbecoming to the rules of social contact indicated a breakdown in social order.

Punishment

Despite both the Portuguese and Aragonese tribunals' obsession with homosexual behavior as indicative of social disorder, the sentences applied to the culprits were milder than those for other crimes, especially "judaizing." New Christians, or *Conversos*, Jews who had been forcibly baptized but secretly practiced the Jewish faith within their homes, were more likely to meet their demise at the stake than men convicted of sodomy.

As the seventeenth century progressed, inquisitors issued milder sentences. Reflecting a greater concern with public scandal, inquisitors preferred to sentence convicted sodomites to exile or the galleys, thus avoiding the necessity of parading them in the *auto de fe* (or burning of a heretic after pronouncement of judgment). Authorities feared that the public admission of homosexual behavior might persuade others also to engage in it.

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