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**Change in the Fourteenth-Century
Inquisition seen through Bernard Gui's and
Nicholas Eymerich's Inquisitors' Manuals**

Ph.D. Thesis

by

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I certify that this thesis is all my own work.

D A Hill
19 October 2015

Abstract

This thesis examines how the *inquisitio hereticæ pravitatis* (the ‘inquisition’) changed in the 14th century. It does so through a comparison of Gui’s *Practica inquisitionis hereticæ pravitatis*, and Eymerich’s *Directorium inquisitorum*, which are the fullest accounts of inquisitorial practice in the fourteenth century. It therefore concentrates on the Languedoc and Aragon, although wider evidence is used where possible. It points out several areas of change between these two points in the evolution of the inquisition:

- a) Gui’s *Practica* was a conservative response to a changing heresy threat, which adapted the existing methods of the successful Languedoc inquisition to meet new threats like the Beguins, Pseudo-Apostles and magicians. Eymerich, who came some 50 years later, was a systematizer and an innovator. He defined the inquisition in such a way that any heterodox thinking could be found to be heresy by an inquisitor. He also innovated in seeing the inquisition’s jurisdiction as extending over Jews (not just Jews converted to Christianity and their helpers), blasphemers and magicians. In this he was following secular trends where magicians were increasingly perceived as a problem and blasphemy was considered a serious offence; and in Aragon there had long been efforts amongst Dominicans to get more jurisdiction over Jews.
- b) Gui worked closely with the secular power and was cautious in his approach to the business of inquisition. Eymerich was more distant from the secular power and envisaged a more autonomous inquisition.
- c) Although Gui used torture on occasions, Eymerich made torture the default mechanism for resolving nearly all suspected cases of heresy.
- d) Gui’s inquisition was still a temporary expedient for defined heresies. Eymerich saw the inquisition as a permanent and institutional part of the Church, which would protect it against all doctrinal assault. In this he saw diabolic influences as playing an important role.

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Chapter I: Introduction and Historiography

Aim of Thesis

This thesis explores how the *inquisitio hereticæ pravitatis* (the 'inquisition') developed in Western Europe in the 14th century.¹ That is, how the body of laws, procedures and practices which constituted the inquisition, and the thinking that underlay them, changed. There was not the rapid transformation seen in the 13th century, when the inquisition was invented and given nearly all its full canon law powers. But 14th century changes were still significant, and have been less studied than those of the previous century. They consisted not so much of amendments to canon law but of changes in procedures and developments in the idea of what heresy was and the place of the inquisition in combatting it. They were important for the early modern Inquisition in the 16th century, when Nicholas Eymerich's *Directorium Inquisitorum*, which is one of the principal focuses of this thesis, became an influential inquisitorial text-book.²

Methodology

The clearest view of how the inquisition actually worked comes from inquisitorial manuals, because they treat the whole inquisitorial process in a systematic and linear way. For that reason this thesis maps the development of the 14th century inquisition primarily through a comparison of Bernard Gui's *Practica Inquisitionis Heretice Pravitatis*, and Eymerich's *Directorium*, which are the two most complete accounts of inquisitorial practice in the 14th century.³ Conclusions have been checked as far as possible against other surviving sources, notably two other 14th century Italian inquisitors' manuals as well as various inquisitors' registers and other inquisitorial records and Gui's Sentences. But the concentration on Gui and Eymerich means that the focus of this thesis is on the Languedoc and Aragon. It does not reach conclusions about other jurisdictions such as Italy or Germany.

¹ Literally 'the inquiry into heretical depravity', the medieval title of what was referred in early modern times as the 'Inquisition' or 'Holy Office'.

² Nicholas Eymerich, *Directorium inquisitorum*, (Rome: 1578), '*Directorium*'.

³ Bernardus Guidonis, *Practica Inquisitionis Heretice Pravitatis*, ed. by Célestin Douais, (Paris: Picard, 1886), '*Practica*'.

There are concomitant risks in this approach through inquisitorial manuals. First there is the nature of the manuals themselves. They are not objective descriptions of how the inquisition worked but are in practice be influenced by assumptions, prejudices and wider aims shared by inquisitors, issues which are discussed in Chapter II. Other surviving inquisitorial records of interrogations or sentences are perhaps more likely to reflect the reality of inquisition business, but they tend to shine a spotlight on only a part of the inquisitorial process and raise their own interpretational difficulties. Second, Gui and Eymerich both had to some extent individual views on the inquisitorial process and Eymerich in particular promoted a particular view of what the inquisition should be. Their views were not necessarily representative of all inquisitors at their time. Nor was the development of the inquisition necessarily linear. For example, the use of torture may have been rather less with Gui than some of his predecessors (e.g. Bernard de Castanet).⁴ It therefore cannot be assumed that all change between Gui and Eymerich represented change in inquisitorial practice more widely. Using other sources will, it is hoped, mitigate this risk and produce a clearer picture. Nevertheless, despite these risks, on balance the most productive and practicable way of examining change in the 14th century inquisition is through Gui's and Eymerich's manuals.

This thesis endeavours to cover all aspects of inquisitorial activity in the 14th century in order to explore change; but how far one can drill down in particular areas is determined by the sources that have survived. Some areas can be studied relatively well; in others thinner evidence has to be built on as far as is possible. For example little is known about the conduct of relations between the secular power and the inquisition, except where these reached crisis point. One can study formal requests for help in (e.g.) Bernard Gui's *Practica*, but the relationship must have consisted of more than sending formal requests back and forward. Nor is there a comprehensive view of how the inquisition was perceived by the population in those places where it operated, in particular of the popular feeling generated by inquisitorial action outside the limited field of heretics and their supporters and families. Similarly little is known about even the most substantial public inquisitorial events the *sermones generales* other than the inquisitors' sentences and their directions about how they

⁴ See Alan Friedlander, *The Hammer of Inquisitors. Brother Bernard Délicieux and the Struggle Against the Inquisition in Fourteenth-Century France* (Leiden: Brill, 2000).

should be managed.⁵ It would be helpful to know how they were seen by those involved and their physical appearance. The sources for the 14th century are also uneven over time. For the first thirty years there are some relatively rich sources: (e.g.) the trial of the Templars, material on Agnes Porète, Fournier's and d'Ablis' inquisitors' registers of interrogations, Gui's Sentences and *Practica* and material on Beguin trials in the Doat collection.⁶ The latter part of the century is less well served, with relatively sparser trial and sentencing material, and Eymerich's *Directorium* stands out as much the most comprehensive work.

Historiography

The historiography of the inquisition in the 14th century is considerable, but not for the most part focussed on the subject of this thesis, change in the 14th century inquisition. In so far as inquisitorial change in this century has been addressed by historians, it has been in relation to topics such as the rising importance of magic or individual cases such as the Templars or Raymond Lull. This historiography nevertheless provides valuable insights, which this thesis uses and this section gives a short overview of the historiography which relates to this thesis.

There are few historians who have analysed the *Practica* and *Directorium* as self-standing works. Douais' edition of the *Practica* contains a short preface, giving the facts of Gui's life, setting out the contents of the *Practica* and explaining his editorial approach.⁷ Mollat's partial translation of the *Practica* into French contains useful material on its sources but generally Mollat takes an unappreciative view of Parts 1-4 of the manual and only chose to

⁵ The Latin word used at the time by the inquisitors – *sermo/sermones* - is preferred here, because the obvious English translation of *sermo* - 'sermon' - does not convey the right sense; the *sermo* was an event or a ceremony, not a 'sermon', although it would have included sermons. It involved religious ceremonial, the judgments against heretics and their sentencing. The Spanish term 'Auto-da-fe' is accurate but anachronistic. The terms *sermo generalis/sermones generales* for a number of people being sentenced and *sermo specialis* for an individual sentencing will also be used where appropriate.

⁶ The Doat collection at the Bibliothèque nationale de France in Paris (BNF) is a 17th century copy running to 248 volumes of a large number of documents from the South-West of France including 13th and 14th centuries documents relating to heresy and inquisition.

⁷ *Practica*, pp. v–xii.

translate Part 5.⁸ Sala-Molins' translation of parts of two editions of the *Directorium* printed in 1585 and 1587, and accompanying commentary, is useful, not least the research on Peña's role as editor.⁹

But neither the *Practica* nor the *Directorium* has been ignored by historians of the inquisition; parts of both have been quarried to build up a wider picture of 14th century heresy. Gui's work has predominantly been seen not only in the context of the wider history of the inquisition but also as an important part of the history of Catharism (Gui is an important source of information as well as a significant historical actor), and of the history of Waldensianism, the Beguins and even of magic, although in these matters Gui was a less central player. Historians have concentrated on Part 5 of the *Practica*, which contains the most interesting material on heresy. Eymerich is an important part of the history of the medieval inquisition, a forerunner of the early modern developments (the Spanish and Roman inquisitions) and a central part of the study of Llullism and of the inquisition's treatment of magicians.

There are works about Gui himself as an historical actor, some of which analyse his philosophy as an inquisitor. There is a short medieval life of Gui giving some interesting snippets, which go beyond the usual encomium one might expect to see.¹⁰ In modern times, Bernard Guenée has an interesting and generally balanced account of Gui's work, although his final judgment of Gui is overly dismissive and perhaps misses the subtleties of Gui's thinking and position:

Coupled with real intellectual and administrative capacities, this tranquil certitude and sober gaiety made Bernard Gui an ideal subordinate, the perfect cog in a hierarchical machine. But these qualities did not prepare him to understand the lost or even the merely troubled sheep in the flock assigned to him [...].¹¹

⁸ *Manuel de l'Inquisiteur*, ed. and trans. by Guillaume Mollat (Paris: Librairie Ancienne Honoré Champion, 1926; repr. 2007).

⁹ *Le manuel des inquisiteurs Nicolau Eymerich & Francisco Peña*, trans. by Louis Sala-Molins with commentary (Paris: Mouton, 1973), p. 69.

¹⁰ Paris, Bibliothèque nationale de France (BNF), MS 4985, 150^r– 160^r, which also contains Gui's *Speculum sanctorale*. Printed in *Bernard Gui et son Monde*, Cahiers de Fanjeaux 16 (no editor named) (Toulouse: Privat, 1981), pp.30-33.

¹¹ Bernard Guenée, *Between church and state: the lives of four French prelates in the late Middle Ages*, trans. by A. Goldhammer (Chicago: University of Chicago Press, 1991), p. 61.

The sixteenth in the series of the *Cahiers de Fanjeaux* contains both a miscellany of articles about aspects of Gui's life and work, of which the most interesting from the point of view of this thesis is Jacques Paul's article 'La Mentalité de l'Inquisiteur chez Bernard Gui'.¹² This analyses Gui's record as an inquisitor and concludes that Gui faithfully carried out the requirements of the Church but that within the discretion allowed by the rules he would act mercifully: 'Bernard Gui is probably horrified by blood and his exactness in the application of the most formal procedural provisions gives him the means to spare it'.¹³ It is based squarely on an analysis of Part 4 of the *Practica* and a comparison with the anonymous document at Doat XXXVI on which Gui based Part 4. It is one of the most accurate accounts so far of Gui's work in that it acknowledges the way in which Gui, a senior judge, was constrained by the law.

Karen Sullivan approaches Gui from a different angle and discusses him as a 'performer'.¹⁴ She concludes:

Gui does not admit that the inquisitor may exercise moral agency, let alone bear moral responsibility in condemning Amiel and other heretics to the stake, but he does set forth that his impersonal enforcement of the law is a conscious act, for the benefit of those watching him.¹⁵

This contains a valuable insight into Gui's relationship with the audience at his *sermones* but Sullivan does not appreciate as fully as Jacques Paul Gui's position as a judge implementing a well-defined legal code or indeed allow that Gui's moral code validated his acting as a judge. Nevertheless these two works show how, by using the *Practica* and also Gui's Sentences, it is possible to build up a picture of Gui's conception of his role as an inquisitor. These ideas are drawn on throughout this thesis.

¹²Jacques Paul, 'La Mentalité de l'Inquisiteur chez Bernard Gui' in *Bernard Gui et son Monde*, pp. 279-316.

¹³ *Ibid.*, p. 313: 'Bernard Gui a probablement horreur du sang et l'exactitude dans l'application des dispositions les plus formelles de la procédure lui donne les moyens de l'épargner'.

¹⁴Karen Sullivan, *The Inner Lives of Medieval Inquisitors* (London: University of Chicago Press, 2011), pp.124-45.

¹⁵ *Ibid.*, p.144.

The historiography on Eymerich's role as an inquisitor is less extensive. Claudia Heimann's excellent account of his life and work is balanced and factual, and based squarely on available source material.¹⁶ Heimann's work describes inquisitorial life rather different from Gui's. Eymerich was concerned with purifying Aragonese intellectual life (for example, by banning Llull), tackling magical practices and extending the inquisition's power to non-Christians, concerns which were not Gui's. Jaume de Puig i Oliver has also written a penetrating account of Eymerich's philosophy as an inquisitor and the role that deception plays in his thinking, which will be drawn on in this thesis.¹⁷ Given Llull's prominence as the leading Catalan intellectual in the Middle Ages, there is substantial material on Eymerich in relation to the Llull controversy, covering both the editing of essential texts and the issues themselves.¹⁸ This case, and the category of inquisitorial activity it represented, were undoubtedly central to Eymerich's career and will be explored in Chapters V and VI. There are some useful editions of a few of Eymerich's other shorter works, although as already noted there is no complete modern edition of the *Directorium* based on medieval manuscripts.¹⁹ Karen Sullivan also writes about Eymerich concentrating on the morality of using deception and the use of torture, an issue which is followed up in Chapter VI.²⁰

There is a considerable historiography on the *inquisitio hereticæ pravitatis* and its development, in which the history of the 13th century predominates. There are two reasons for this. First, the inquisition was developed over some 70 years from a concept to a highly

¹⁶ Claudia Heimann, *Nicolaus Eymerich (vor 1320-1399): praedicator veridicus, inquisitor intrepidus, doctor egregius: Leben und Werk eines Inquisitors* (Münster: Aschendorff, 2001).

¹⁷ Jaume de Puig i Oliver, 'Nicolás Eymerich, un inquisidor discutido' in *Prædicatores Inquisitores – I: The Dominicans and the Medieval Inquisition. Acts of the 1st International Seminar on the Dominicans and the Inquisition* (Rome: Dominican Historical Institute, Dissertationes Historicæ 29, 2004), pp.545-93.

¹⁸ An example of the first is Josep Perarnau i Espelt, *De Ramon: Llull a Nicolau Eimeric: els fragments de l'ars amativa de Llull en còpia autògrafa de l'inquisidor Eimeric integrats en les cent tesis antilul·lianes del seu Directorium Inquisitorium* (Barcelona: Facultat de Teologia de Catalunya, Facultat Eclesiàstica de Filosofia de Catalunya, 1997); and of the second Jaime Roura Roca, 'Posición doctrinal de Fr. Nicolás Eymerich, O.P., en la polémica luliana', *Colección de monografías del Instituto de Estudios Gerundenses* 3 (1959), 15-24.

¹⁹ A good example is an edition by Josep Perarnau i Espelt of 'Contra infideles fidem catholicam agitantes' and 'Tractatus de hæresi et de infidelium incredulitate et horum criminum iudice' in *Arxiu de textos catalans antics*, 1 (1982), 79-126.

²⁰ Sullivan, *The inner lives*, pp. 169-196.

sophisticated and often successful machine, a dramatic and interesting story. By contrast change in the 14th century seemed much less dramatic and there were no changes in canon law after 1317. Second, the events in which the inquisition was a factor (the Templars, Agnès Porète, the Spiritual Franciscans and Beguins, the end of the Cathars and the growing persecution of magicians are notable examples) provide a narrative as intriguing as the 13th century struggles with Catharism and Waldensianism. Historians who write about the inquisition in the 14th century have tended to concentrate on the wider narrative of the inquisition's activities rather than on change in the inquisition itself. For example, Henry Lea's authoritative history of the Medieval Inquisition covers the 14th century in Book I on the 'Origins and Organisation' of the Inquisition but his implicit assumption is that the 14th century inquisition was much the same as the 13th. He covers the narrative of inquisition activity in the 14th century but does not explicitly assess change.²¹ Bernard Hamilton similarly covers the 14th century by writing a chapter on 'Prosecutions of the fourteenth century', which, although it tells the story of the Spiritual Franciscans, does not reflect on (e.g.) the novel features of John XXII's use of heresy against them.²² A similar pattern is found in Elphège Vacandard's work on the inquisition published in 1907.²³ He sees the inquisition as being complete in the 13th century; after that it was a question of interpretation and enforcement.²⁴ Jean Guiraud, although he presents a comprehensive picture of the inquisition in the 14th century, again sees that century as a series of occasions on which the inquisition was used.²⁵ Although he covers the increasing use of the inquisition against magicians and Jews, he does not assess any consequent change in the inquisition. Even James Given, who writes perceptively about the inquisition in the Languedoc, treats Eymerich in some ways as a contemporary of Gui, or at least without any indication that the inquisition was subject to change.²⁶

²¹ Charles Henry Lea, *A History of the Inquisition in the Middle Ages* (London: Sampson Low, Marston and Rivington, 1888).

²² Bernard Hamilton, *The Medieval Inquisition* (London: Arnold, 1981), pp. 82-93.

²³ Elphège Vacandard, *The Inquisition: a Critical and Historical Study of the Coercive Power of the Church* (Fairford: The Echo Library, 2010).

²⁴ *Ibid.*, p. 75.

²⁵ Jean Guiraud, *The Medieval Inquisition* (New York: Benziger Brothers, 1930), pp. 141-78.

²⁶ James Given, *Inquisition and Medieval Society: Power, Discipline and Resistance in Languedoc* (Ithaca: Cornell University Press, 1997), pp. 92-95.

The historiography on the legal origins of *inquisitio hereticæ pravitatis* is of considerable value to understanding later change. It is scattered across many sources, including the works by Hamilton and Lea mentioned above. Particular mention should be made of articles by Winfried Trüsen and Lotte Kéry about the inquisition's historical development.²⁷ Trüsen examines how the earlier practices of investigating and curing church abuses developed in Innocent III's time into the concept of *inquisitio*, which was not at that time linked to heresy. Kéry shows how *inquisitio* was applied in the 13th century to criminal cases including heresy and how the idea of penitence was extended to punishment. General works such as Richard Helmholz's *The Spirit of Classical Canon Law* usefully locate the development of heresy laws in the overall development of criminal canon law.²⁸ These and works such as Henri Maisonneuve's *Études sur les Origines de l'Inquisition* are essential to understanding the concepts underlying the process of inquisition and therefore how it may have been susceptible to change.²⁹ More recent work by Peter Biller, Caterina Bruschi, and John Arnold has provided tools for interpreting inquisitorial documents, which has been drawn on extensively in this thesis.³⁰ Also Lucy Sackville's recent work, *Heresy and Heretics in the Thirteenth Century: The Textual Representations*, has been of particular value both as an account of inquisition law and a compendium of pre-14th century works.³¹

²⁷ Winfried Trüsen, 'Der Inquisitionsprozess, seine historischen Grundlagen und frühen Formen.' *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, 105 (1988), 168-230, and Lotte Kéry, 'Inquisitio – denunciatio – exceptio: Möglichkeiten der Verfahrenseinleitung im Dekretalenrecht', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, 118 (2001), 226-268; and 'Kirchenrechtliche Grundlagen des öffentlichen Strafrechts' in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, 122 (2005), 128-67.

²⁸ Richard Helmholz, *The Spirit of Classical Canon Law* (Athens, Georgia: University of Georgia Press, 2010).

²⁹ Henri Maisonneuve, 'Études sur les Origines de l'Inquisition' in *L'Eglise et L'Etat au Moyen Age 7* (Paris: Vrin, 1960), pp. 283-307.

³⁰ Peter Biller, *The Waldenses 1170-1530: Between a Religious Order and a Church* (Aldershot: Ashgate Press, 2001) and 'Umberto Eco et les interrogations de Bernard Gui', in *Inquisition et Pouvoir*, ed. by Gabriel Audisio (Aix-en-Provence: Presses Universitaires de Provence, 2004), pp. 257-68 ; Caterina Bruschi, 'Gli inquisitori Raoul de Plassac e Pons de Parnac e l'inchiesta tolosana degli anni 1273-1280' in *Prædicatores Inquisitores – I: The Dominicans and the Medieval Inquisition. Acts of the 1st International Seminar on the Dominicans and the Inquisition*, *Dissertationes Historicæ* 29, (Rome: Dominican Historical Institute, 2004) pp. 471-93 and *The Wandering Heretics of Languedoc* (Cambridge: Cambridge University Press, 2009); and John Arnold, *Inquisition and Power: Catharism and the Confessing Subject in Medieval Languedoc* (Philadelphia: University of Pennsylvania Press, 2001).

³¹ Lucy Sackville, *Heresy and Heretics in the Thirteenth Century: The Textual Representations* (Woodbridge: York Medieval Press/Boydell Press, 2011).

One of the most important catalysts for change in the 14th century was the growing preoccupation of the inquisition with magicians. There are many sources about the history of magic in the 14th century, but Alain Boureau and Richard Kieckhefer are notable in this context.³² In particular Alain Boureau's two works, *Le Pape et les Sorciers* and *Satan the Heretic*, contain a valuable analysis of how considering magic as a heresy necessarily changed the concepts on heresy and inquisitorial law and thereby the inquisition itself.³³ One part of this thesis will consider how this change was translated into manuals on heresy and its impact on the wider concept of heresy.

One of the themes of this thesis is that the 14th century saw a shift in the function or status of the inquisition within the Church. This can be described as the inquisition gradually being seen less as an *ad hoc* technique to deal with specific problems of heresy, but rather a permanent and institutional part of the Church's machinery. This idea comes from Richard Kieckhefer's article in the *Journal of Ecclesiastical History* in 1995.³⁴ This institutionalisation of the inquisition was bound up, *inter alia*, with changes in the perceived threat from heresy, in particular the focussing of the inquisition's activities on magical practices, and a more general broadening of the concept of heresy. The extent to which the inquisition travelled from a personal jurisdiction to an 'institution' in the 14th century is considered later but the change in the nature of the 'inquisition' which Kieckhefer describes is a central theme in this thesis discussed in Chapter VII.

This thesis also tries to locate the inquisition in the 14th century in its social and political contexts. There is some valuable historiography on this. James Given in particular has written an account of the inquisition in conflict with the people of the Languedoc and analyses Gui's record as an inquisitor in that context.³⁵ This work uses Foucauldian and

³² Richard Kieckhefer, *Magic in the Middle Ages* (Cambridge: Cambridge University Press, 2000).

³³ Alain Boureau, *Le pape et les sorciers: une consultation de Jean XXII sur la magie en 1320: manuscrit B.A.V. Borghese 348* (Rome: École française de Rome, 2004); and *Satan the Heretic, The Birth of Demonology in the Medieval West* (London: University of Chicago Press, 2006).

³⁴ Richard Kieckhefer, 'The Office of Inquisition and Medieval Heresy: the Transition from Personal to Institutional Jurisdiction', *Journal of Ecclesiastical History*, 46 (1995), 36–61 (p. 39).

³⁵ Given, *Inquisition and Medieval Society*.

Marxist ideas to analyse the conflict in the Languedoc. That perhaps leads Given to overstate the extent of that conflict and to underestimate the Church's use of what is now called 'soft power' and the other changes (e.g. the success in developing university education) which were occurring in Languedoc society. But his thesis that there was a relationship between Gui and the society of the Languedoc aimed at extending the inquisition's power is powerful and is drawn on in Chapter IV and elsewhere.

Finally, Christina Caldwell Ames has developed an approach which stresses that inquisitors' behaviour and the development of the inquisitorial system, including even the use of torture and tolerance of capital punishment, was permeated by a religious view of life.³⁶ Religious beliefs were a motivation for inquisitors at the personal level and they drew on religious practices in the development of the inquisitorial system. As Ames points out, this insight in no way precludes analyses of the inquisition's 'social and political dynamics' in wider society.³⁷ She also stresses that we should not see the harshness of some inquisitorial practice as precluding religious motivation; such a view is essentially anachronistic and based on a modern view of what Christianity should be. Rather the inquisitors' activities should be seen in the context of belief at that time in a transcendent community in which inclusion must be compelled in order to accomplish 'the salutary work of re-placing souls in God's right order.'³⁸

Ames's approach is useful in at least two ways. First, it informs the analysis of parts of the inquisitorial process. For example, *sermones generales* in Churches must be viewed as a religious event, and the interrogation of prisoners a way of achieving penitence. For example although both Gui and Eymerich are prepared to use torture, neither uses it to achieve penitence and the wish to abjure on the part of suspects. Its use is restricted to gathering information, although as is argued in Chapter V their approaches differ substantially in this area. Second it explains the willingness of inquisitors to carry out harsh treatment of suspects, either through prolonged incarceration or physical violence. The calculation was that the salvation of an individual soul, and ending the risk of the contamination of other souls, justified those actions. The maintenance of formal rights and the protection of the

³⁶ Christine Caldwell Ames, 'Righteous Persecution: Inquisition, Dominicans, and Christianity in the Middle Ages', *American Historical Review*, 110 (2005), 11-37.

³⁷ *Ibid.*, p. 25.

³⁸ *Ibid.*, p. 24.

individual were less important than the ends they were pursuing. This insight is central to any understanding of the inquisition's interrogation techniques and its work more generally.

There is no necessary contradiction between, say, Given's approach and Ames's. The legal system within which the inquisitors worked was itself a sacred system, based on Holy Scripture, the thinking of the Church fathers and the subsequent decisions of Christ's Vicar. Inquisitors were deputies of the Holy See (*per sedem apostolicam deputatus*), a high office which enabled them *inter alia* to make judgments about membership of the Church and give indulgences.³⁹ But that in no way precluded a dialogue based on a rational understanding of the law; nor did the promotion of the 'negotium fidei: the business of faith' in any way mean that they should eschew rationality.

Beyond those works which deal principally with the inquisition itself, there is much useful historiography for the inquisition contained in works which focus primarily on heresy. There are few heretical sources and most knowledge of heretics must come from inquisitorial sources, with the consequence that any history of heresy must address the nature of inquisitorial sources. Furthermore, after 1232 the history of the inquisition and heresy are closely intertwined. They impacted one on the other and cannot be understood in isolation from one another. Gui as an inquisitor has been seen above all as a part of the history of Catharism, not unreasonably in that his work, and the Languedoc inquisition of which he was part, were primarily directed at the elimination of Catharism and to a lesser extent Waldensianism. That simple pattern changed, however, towards the end of Gui's period as inquisitor with the emergence of the Beguins and growing pressure to tackle magicians and to take further action against Jews. One of the principal issues covered in this thesis will be how Gui and Eymerich dealt with these two groups.

The mainstream historiographical approach towards Catharism represented by Arno Borst in German, Walter Wakefield, Malcolm Lambert and Malcolm Barber in English, and Michel Roquebert and Jean Duvernoy in French, relies on the usual method of building an historical picture, which assumes that, while any source may be suspect for a variety of

³⁹ *Practica*, p. 3.

reasons, if all the sources are taken together and carefully compared to eliminate bias, the probability is that the most accurate possible account of what happened will emerge.⁴⁰

Since the publication of *Montaillou* in 1975 the use of the sources has taken a new direction. *Montaillou* attempted to use the expansive Fournier inquisition register to build up a (non-linear and static) picture of life in a village which had a substantial Cathar presence.⁴¹ It opened up new areas of study but also raised new questions. How should inquisition sources be viewed? Can the inquisition's accounts be trusted? To what extent did the Cathars actually hold the beliefs attributed to them? How much did their *credentes* (believers) understand about the faith? These questions have a wider application to all inquisition sources including inquisitors' manuals.

The second issue is to what extent the inquisition may have generated the problem of heresy. In 1994 a colloquium in Carcassonne discussed the extent to which Catharism was a heresy.⁴² It discussed the possibility that the Cathars' dualism was a calumny against them by the Church. Mark Pegg has in recent years developed a critique of the inquisition which draws heavily on this scepticism about the heresy of the Cathars. His thinking is most fully expressed in an article in the *Journal of Medieval History* in 2001 and is in essence that, in the case of Catharism, the Church projected an idea of heresy onto practices which did not in fact conform to the template of an organised heresy perceived by the Church.⁴³ It is certainly true that the definition of heresy was controlled by the

⁴⁰ Arno Borst, *Die Katharer* (Munich: Herder, 1991); Walter L. Wakefield, *Heresy, crusade and inquisition in southern France 1100-1250* (London: G. Allen & Unwin, 1974); Malcolm Lambert, *The Cathars* (Oxford: Blackwell Publishers, 1998); Malcolm Barber, *The Cathars: dualist heretics in Languedoc in the high middle ages* (Harlow: Longman, 2000); Michel Roquebert, *La religion cathare: le bien, le mal et le salut dans l'hérésie médiévale* (Paris: Perrin, 2001); and Jean Duvernoy, *Le catharisme* (Toulouse: Privat, 1976-1979).

⁴¹ Emmanuel Le Roy Ladurie, *Montaillou, Cathars and Catholics in a French village, 1294-1324*, trans. by Barbara Bray (London: Scholar Press, 1978); and *Le Registre d'Inquisition de Jacques Fournier (1318-1325)*, ed. by Jean Duvernoy (Toulouse: Mouton, 1965), 'Fournier register'.

⁴² *Catharisme: l'édifice imaginaire : Actes du 7e colloque du Centre d'études cathares-René Nelli, Carcassonne, 29 août-2 septembre 1994/ Colloque du Centre d'études cathares-René Nelli; présentés par Jacques Berlioz et Jean-Claude Hélas* (Arques: Vogels, 1998), 'Actes du 7e colloque'.

⁴³ Mark Pegg, 'On Cathars, Albigenses, and good men of Languedoc', *Journal of Medieval History*, 27:2 (2001), 181-195.

Church, which therefore decided what was and what was not heretical. Nevertheless the extant evidence certainly portrays Catharism as sufficiently heterodox to be heretical and its practices as threatening the Church, albeit that evidence was overwhelmingly generated by the Church. Pegg's views may well overestimate the extent to which the Church could have manipulated views on Catharism; but the important point for this thesis is that the Church's definitions of heresy should always be treated sceptically and that in any consideration of heresy and the inquisition the way of defining heresy is crucial.

In parallel Robert Moore in his well-known work on the persecuting society puts forward the thesis that the church chose to pursue heretics in part as a by-product of its own reform programme, which aimed to professionalise and purify the church. The very process of this reform threw heterogeneous practice into a sharper spotlight where it appeared increasingly unacceptable. The declaration that 'Una vero est fidelium universalis ecclesia extra quam nullus omnino salvatur' combined with a more precise delineation of the requirements of faith left a diminishing area for heterogeneity. The result was that:

A named category was created – Manichee, Jew, leper, sodomite and so on – which could be identified as a source of social contamination and whose members could be excluded from Christian society and, as its enemies, held liable to pursuit, denunciation and interrogation, to exclusion from the community, deprivation of civil rights and loss of property, liberty and on occasion life itself.⁴⁴

Moore's conception of the development of a persecuting society is one useful way of conceptualising the development of the inquisition, which will be used in the Conclusion to this thesis.

Heresy in Aragon at Eymerich's time has received less attention than heresy in the Languedoc. Eymerich's inquisitorial/heretical world differed from Gui's. He dealt, as far as we can tell, with magicians, non-Christians (Jews and Muslims) and those committing intellectual error, a category into which the Lullists fall. This was in part because of different circumstances in Aragon, but in part because Eymerich was endeavouring to

⁴⁴ Robert Moore, *The Formation of a Persecuting Society: Power and Deviance in Western Europe 950 – 1250* (Oxford: Blackwell Publishing, 2007), p. 68.

change the role of inquisitor and because concerns about heresy had changed in Western Europe as a whole.

We know frustratingly little about Eymerich's overall inquisitorial activity (apart from Llull) compared with Gui. For that reason the context within which he was working becomes more important to judge the significance of the ideas proposed in the *Directorium*. Works such as Yitzhak Baer's history of the Jews in Spain, David Nirenberg's *Communities of Violence* and Jeremy Cohen's *The Friars and the Jews. The Evolution of medieval anti-Judaism*, as well as the historiography on Lullism mentioned above, are especially valuable in judging the wider significance of Eymerich's ideas on non-Christians.⁴⁵ This thesis will examine whether the fact that Eymerich dealt with a different set of heretics from Gui helped change his concept of the inquisition. For example the issue for Gui was almost invariably whether an individual belonged to a particular group of heretics (typically the Cathars, Waldensians or Beguins); for Eymerich the issue was more whether behaviour in fact constituted heresy. In the cases of both the Lullists and the Jewish magician, Astruc de Pieira, Eymerich's views on the heretical nature of their activities were strongly contested.

Wider Historiographical Issues

There are other wider areas of historiography which are relevant to the 14th century inquisition and which provide ways of analysis for this thesis. First, Herbert Grundmann has been particularly influential on all studies of heresy. He stressed the links between heresies and the Church reform programme in that their essential aim was the same, to recover a purer form of Christian life, the *vita apostolica*.⁴⁶ Indeed nearly all the heresies Gui dealt (principally Waldensianism, Catharism and the Beguins) with aimed at recreating some form of purer Christian life and involved a level of rejection of the material life. Indeed any asceticism – a rejection of the material – involves the belief that the material is corrupt and takes one nearer some kind of dualism. It can be argued that emotionally the Cathars, assuming they were in fact dualists, were nearer the Spiritual Franciscans than might appear

⁴⁵ Yitzhak Baer, *A History of the Jews in Christian Spain* (Philadelphia: Jewish Publ. Soc. of America, 1961); David Nirenberg, *Communities of violence: persecution of minorities in the Middle Ages* (Princeton: Princeton University Press, 1996); and Jeremy Cohen, *The Friars and the Jews* (London: Cornell University Press, 1982).

⁴⁶ Herbert Grundmann, *Religious Movements in the Middle Ages*, trans. by S. Rowan (Notre Dame: University of Notre Dame Press, 2005).

on a purely theological level. This sympathy between sects was an important dynamic in the case of Bernard Délicieux, whose exploits were significant for Gui's career and thinking. It is an important reality to bear in mind, particularly as inquisition sources are theologically precise and tend to maximise differences. This pattern was not the same with Eymerich; many of his suspects were magicians and/or of non-Christian religion, people who did not share the drive towards the *vita apostolica* which most of Gui's suspects shared.

Second, the thinking of Max Weber remains useful in understanding the historical development of medieval canon law. Weber believed that, of all sacred systems of law, medieval canon law was the most rational.⁴⁷ A "rational" legal system as one in which cases were judged against fixed criteria or law by reducing 'the reasons relevant in the decision of concrete individual cases to one or more "principles" i.e. legal propositions'.⁴⁸ He contrasted this to 'khadi' justice, where cases are settled - in the absence of clear precedent – on the basis of revelation (ordeal was a medieval Western version) or by reasoning unique to a particular case (arguably 'khadi justice' was a straw man with orientalist overtones but that is not an issue for this thesis).⁴⁹ Although there are many significant differences between modern law and medieval canon law, this basic element of rationality remains a common element. It was still a relatively recent innovation in the 14th century. Weber's views are built on by David d'Avray's recent work on medieval rationalities, which is drawn on later in this thesis as a useful way of understanding Gui in particular.⁵⁰

The late 12th and 13th centuries saw the establishment of the law on the inquisition (discussed above) in a fairly systematic form. But this law still left much in procedural and practical terms to local discretion and it is possible to see both Gui's and Eymerich's initiatives as attempting to systematize procedure and practice by drawing on past law and opinion. In Gui's case it may have been that the difficulties that the inquisition in the Languedoc had experienced at the start of the 14th century made it more important to 'get things right' and

⁴⁷ Max Weber, *Economy and society: an outline of interpretive sociology*, ed. by Guenther Roth and Claus Wittich, trans. by Ephraim Fischhoff, 2 vols, (Berkeley: University of California Press, 1978), II, p. 828: 'In many of its parts it [Western Canon law] was much more rational and more highly developed than the other cases of sacred law.'

⁴⁸ *Ibid.*, II, p. 655.

⁴⁹ *Ibid.*, II, pp. 976-78.

⁵⁰ David d'Avray, *Medieval religious rationalities: a Weberian analysis* (Cambridge: Cambridge University Press, 2010).

avoid any reaction from outside parties and so for Gui to pass on his experience in the form of the *Practica*. The evolving nature of heresy was also an important factor. Eymerich was writing at a time when Gregory XI was trying to reinvigorate the inquisition, including appointing new inquisitors in Portugal and the Holy Roman Empire, and there may well have been a feeling that comprehensive advice on how to carry out the role of inquisitor was needed.⁵¹

Last, thinking on how the stage management of punishment were designed to demonstrate the power of the authorities is highly relevant to *sermones generales* and *sermones speciales*. Thinking in this area was developed most notably by Michel Foucault, who famously contrasted theatrical ‘medieval’ punishment with modern ‘rational’ punishment.⁵² But for the purposes of this thesis works by Esther Cohen and Mitchell Merback who have analysed medieval justice building on Foucault’s thinking are more useful.⁵³ While the picture they paint of secular justice cannot be applied without modification to the inquisition’s practices, the inquisition’s *sermones* shared much with the spectacles that accompanied secular justice, above all the element of theatricality. However, *sermones* also represented a kind of counterpoint to secular practices, reflecting the Church’s mission in society. For example, in so far as the prospect was always present for any but *relapsi* to save their lives by abjuring the Church could present itself in part as being in contradistinction to secular justice where punishment was the norm rather than forgiveness.⁵⁴ But the fate of *relapsi* and pertinacious heretics conformed more nearly to the norms of secular justice but in a way that enabled the church to remain ritually pure. The meaning of *sermones* will be pursued in Chapter IV drawing on the work of Cohen and Merback.

Sources

⁵¹ Paul Thibault, *Pope Gregory XI: the failure of tradition* (London: University Press of America, 1987), pp. 190-91.

⁵² Michel Foucault, *Surveiller et punir*, (Paris: Gallimard, 1975), pp. 43-44.

⁵³ Esther Cohen, *The crossroads of justice: law and culture in late medieval France* (Leiden: Brill, 1993); and Mitchell Merback, *The Thief, the Cross and the Wheel* (London: Reaktion Books, 1999).

⁵⁴ The Latin term ‘relapsus/relapsi’ is used for a suspect who has previously abjured heresy and on a second conviction is liable to ‘release to the secular arm’, which inevitably meant burning.

The first of the two principal manuals used for this thesis is Bernard Gui's '*Practica*', or as he called it in full '*Tractatus presens de practica inquisitionis heretice pravitatis*', which was completed around 1325 in the Languedoc and which is referred to here as the '*Practica*'. Closely related to the *Practica* are Gui's 'Sentences' or '*Sententiæ*' in Latin.⁵⁵ The Latin term '*Sententiæ*' is preferred here to 'Sentences' to name the work because strictly the individual *sententiæ* contain both the sentences given to those found guilty of heresy and the judgments ('*culpæ*') on which those sentences are based. The Latin term '*Sententiæ*' avoids this confusion. The *Sententiæ* complement the *Practica* by showing Gui in action as an inquisitor delivering judgments and sentences. The *Practica* survives in 6 separate manuscripts and no edition based on all these six manuscripts has been published.⁵⁶ However Célestin Douais published an edition in 1886 based on Toulouse Ms 387, taking into account Toulouse Ms 388.⁵⁷ Ms 387 is one of the earliest texts and Douais was confident that he was dealing with the original work of Bernard Gui: 'Therefore I can, without temerity, be confident that I am editing Bernard Gui's original work'.⁵⁸ Douais' edition lacks a full *apparatus criticus* but those working in this area have accepted Douais' work as good enough for scholarly work, and that is the practice adopted here. Gui's *Sententiæ* exist in only one manuscript (British Library Add. 4697) and that has recently benefitted from a scholarly edition, which is used here.⁵⁹

The second manual is Nicolas Eymerich's *Directorium inquisitorum*, referred to here as the '*Directorium*'. It was completed in Avignon in 1376 (although Eymerich was inquisitor in the kingdoms of Aragon he had fallen out with the king, Peter IV, had been expelled from Aragon and had moved to Avignon). Eymerich's *Directorium* does not present such a straightforward picture as the *Practica*. Claudia Heimann lists some thirty-four manuscripts; most are from the middle of the 15th century or later but three date from the end of the 14th

⁵⁵ Bernard Gui, *Le Livre des Sentences de l'inquisiteur Bernard Gui*, ed. by A. Pales-Gobilliard (Paris: CNRS éditions, 2002), '*Sententiæ*'.

⁵⁶ Toulouse, Bibliothèque d'Etude et du Patrimoine (TBEP), MSs 387 and 388 (both 14th century); London, British Library (BL), MS Egerton 1897 (15th century); Rome, MS Vatican Library 4032; BNF, MS Fonds Doat XXX (Doat) (a 17th century copy, probably of one of the Toulouse manuscripts); and Dôle-de-Jura: Bibliothèque municipale, MS 109.

⁵⁷ *Practica*.

⁵⁸ *Ibid.*, p. xi. 'Je puis donc, sans témérité, avoir la confiance que j'édite l'œuvre originale de Bernard Gui.'

⁵⁹ *Sententiæ*.

century/ beginning of the 15th century.⁶⁰ The first is a manuscript dating from the end of the 14th century held in Palma de Mallorca, which has corrections in Eymerich's own hand.⁶¹ Heimann dates it on evidence from the text at between 1387 and 1399, the year of Eymerich's death. The second dated as beginning of the 15th century is at the Vatican, and the third dated end of 14th/beginning 15th century is at Vienna.⁶²

There were 13 full editions of the *Directorium* printed in Latin in the 16th and 17th centuries and one partial edition covering only the errors of the heretics.⁶³ Apart from one (full) edition printed in Barcelona in 1503 and a partial edition printed in Seville in 1500, all printed versions were edited, and contained additions, notes and comments, by Francisco Peña. The additions, notes and comments are clear in the text and can be disregarded. But Peña also edited Eymerich's text itself, which raises the question whether in doing so he in any way distorted Eymerich's intentions. Peña himself was clear about the corrupt state of the texts of the *Directorium* and thought that by comparing three texts he had achieved a good text, such as could be thought to have been produced by Eymerich.⁶⁴ Peña also sets out how he has changed the text, for example by filling out the references to canon lawyers.⁶⁵ Edward Peters describes Peña's editing work as 'exhaustive, tireless, careful, and precise as a textual critic in the best traditions of sixteenth century scholarship'.⁶⁶ 'His edition of the *Directorium* is both a skilfull establishment of a difficult text and a coherent and consistent expansion of the text that establishes the theological and juridical continuity between Eymeric's work and his own.'⁶⁷ He lists the ways in which Peña amended and added to Eymerich's text. Louis Sala-Molins has also given a degree of assurance; he checked the

⁶⁰ Heimann, pp. 175-182.

⁶¹ Palma de Mallorca, Biblioteca Bartomeu March, MS 104-II-7, fols 1^r – CLXXVI^v, 'BM'.

⁶² Vatican City, Biblioteca Apostolica Vaticana, MS Vat. Lat. 4866, f. 1^r – 235^r; and Vienna, Dominican Convent, MS Codex 129/97.

⁶³ Emil van der Vekené, 'Die gedruckte Ausgaben des Directorium inquisitorum des Nicolas Eymerich', *Gutenberg-Jahrbuch*, 1973, 286-297.

⁶⁴ *Directorium*, Intro by Peña: 'Singuli hi codices infinitis prope locis erant depravitissimi : ex omnibus tamen unus est conflatus (nisi fallor) perfectus, qualem ab Eymerico produisse putandum est [...].'

⁶⁵ *Directorium*, Intro by Peña: 'Rursus in secunda parte super tit(ulum) de haereticis in decretalibus integras Hostiensis et Ioannis And. lecturas (ut vocant) apposuimus, quamvis in impresso et manuscriptis pauca quedam recitentur super unoquoque [...].'

⁶⁶ Edward Peters, 'Editing Inquisitor's Manual in the Sixteenth Century: Francesco Peña and the Directorium of Nicolas Eymerich', *The Library Chronicle of Pennsylvania*, XL (1974), 95-107.

⁶⁷ *Ibid.*, p. 100.

printed texts against four manuscripts and concluded: ‘Peña does not cheat with Eymerich’s text [...]’.⁶⁸ An examination of the manuscript held in Palma de Mallorca confirms that these judgments are correct. But, while the 16th century editorial decisions may well have been reasonable, they were not done to modern critical standards. An edition to modern standards would be helpful, given the multiplicity of texts, but it would represent considerable work with possibly too little value added to make it worthwhile. In the absence of that scholarly edition use is made here of the 1578 edition, which is available on line.⁶⁹ In that edition the Peña notes and additions are well signposted and have been disregarded for the purposes of this thesis. Nevertheless those parts of the text on which this thesis relies have been checked against the Palma manuscript and are all present. They are referenced against that manuscript as well as the online text.

Gui, who had a good reputation within the Dominican community at the time he flourished, and in the rest of the 14th century (Eymerich knew his work and used elements in his own *Directorium*), was not published in the 16th century when the inquisition was revived in its early modern guise and remained unpublished until the medieval inquisition began to be studied as history.⁷⁰ His inquisitorial works were first printed in 1672, when Limborch printed the *Sententiæ*.⁷¹ The *Practica* had to wait for Célestin Douais in 1886.

Besides the *Practica* and *Directorium* there were two other significant 14th century Italian inquisitorial manuals, which will be examined in this thesis. The first is anonymous and entitled ‘*De officio inquisitionis*’ and was used by Dominicans in Bologna and Ferrara and is available in a modern edition.⁷² It is essentially a legal text describing the law, and does

⁶⁸ *Le manuel des inquisiteurs Nicolau Eymerich & Francisco Peña*, trans. by Louis Sala-Molins with commentary (Paris: Mouton, 1973), p. 69: ‘Peña ne triche jamais avec le texte eymericien [...]’.

⁶⁹ <http://digital.library.cornell.edu/cgi/t/text/pagevieweridx?c=witch&cc=witch&idno=wit045&node=wit045%3A7&view=image&seq=1&size=100>

⁷⁰ André Vernet, ‘La Diffusion de l’œuvre de Bernard Gui d’après la tradition manuscrite’ in *Bernard Gui et son Monde Cahiers de Fanjeaux* 16 (Toulouse: Privat, 1981), pp. 221-238.

⁷¹ Philip Limborch, *Historia Inquisitionis: cui subjungitur Liber sententiarum Inquisitionis Tholosanæ ab anno Christi MCCCXVII ad annum MCCCXXIII* (Amsterdam: apud Henricum Wetstenium, 1692).

⁷² *Il "De officio inquisitionis": la procedura inquisitoriale a Bologna e a Ferrara nel Trecento/ introduzione*, ed. by Lorenzo Paolini (Bologna: Editrice Universitaria Bolognina, 1976), ‘*De officio*’.

not cover the nature of heretics or how to conduct investigations. The second was written around 1330 by Zanchino Ugolini entitled *Tractatus super materia hereticorum*. This is available in a printed edition, albeit, like printed editions of the *Directorium*, this has additions and emendations.⁷³ Ugolini is more restricted than Gui and Eymerich in that he does not explore the nature of heretics or the management of *sermones* and relations with outside bodies. That said, Ugolini's work overlaps with much of the content of Gui's and Eymerich's manuals. As far as can be established there are no other extant manuals between Ugolini and Eymerich.

There are a number of other works which can be drawn on. Guido Terreni's *Summa de haeresibus*, which was written between 1313 and 1317, and Alvaro Pelayo's *Collyrium fidei contra hereses*, which was written in 1348, condemning Averroists, spirituals and Beguins, Jews and Muslims deal with heresy rather than inquisition. Both were later printed.⁷⁴ There were also inquisitorial works written in the 13th century which will be drawn on as appropriate, in particular the anonymous *Doctrina de modo procedendi contra haereticos*, which was a manual used by the Languedoc inquisitors and the equally anonymous document with the *incipit* '*Quoniam ipsa experiential facti*' (referred to here as '*Quoniam*'), a treatise on the powers of the inquisition written in the 1270s.⁷⁵ Gui drew on both, and they are discussed further in Chapter II.

The documentation of the medieval inquisition in the Languedoc for the period when 'Catharism' flourished and then disappeared – which includes the period when Gui was active - is one of the richest sources surviving from the middle ages, giving evidence about the thoughts and actions of a whole spectrum of people as well as providing substantial material about heresy and its suppression and the operation of the inquisition. This

⁷³ Zanchino Ugolini, 'Tractatus super materia hereticorum' in *Tractatus universi iuris*, 22 vols (Venice: 1584), XI, '*Tractatus*'.

⁷⁴ Guido Terrena de Perpiniano, *Summa de haeresibus et earum confutationibus*, (Paris: Prelum Ascensianum, 1528); and Álvaro Pais (A. Pelagius), *Colírio da fé contra as heresias*, ed. and trans. by Dr. Miguel Pinto de Meneses (Lisbon: Instituto de Alta Cultura, 1954).

⁷⁵ '*Doctrina de modo procedendi contra haereticos*' in *Thesaurus novus anecdotorum*, ed. by E. Martène and U. Durand, 5 vols (Paris: 1717), V, '*Doctrina*'; and (*Quoniam*), BNF, MS Fonds Doat XXXVI, fols 1^r to 36^r. The latter was based on an Italian text which has recently been edited and described. (Stephania Pirlì, '*De Auctoritate et Forma Officii Inquisitionis*' (unpublished doctoral thesis, University of Bologna, 2008)).

documentation consists principally of registers of the interrogations carried out by the inquisition, theological works relating to heresy and some other documents relating to the inquisition's activity.⁷⁶ This is supplemented by papal and royal correspondence, which often gives a wider context.⁷⁷ Taken together this body of material can in principle provide a comprehensive picture of the Church's attempts to suppress Catharism and Waldensianism, and later the Beguins (Gui's term for the followers of the Spiritual Franciscans), in the 13th and early 14th centuries. The significant *lacuna* from the historiographical point of view has been any substantial corpus of evidence produced by the Cathars on their beliefs (there is substantial evidence of what the Church said the Cathars believed) or any Cathar views on the operation of the inquisition. What exists from Cathar sources is fragmentary and the best text on Cathar beliefs, the *Liber de duobus principiis*, is tainted by the fact that it was produced within a Church context.⁷⁸ The Waldensians are better documented from the point of view of their beliefs, which were largely orthodox in terms of wider theology, their heterodoxy being a rejection of Church authority.⁷⁹ The Spiritual Franciscans and their lay adherents, the Beguins, who were a challenge the inquisitors from 1317, are also well documented on both sides of the story.⁸⁰ It is possible to build up a picture of the threat which the Waldensians and the Beguins posed to the Church, how reconcilable their beliefs were to the Church and the proportionality of the action taken against them. But in the case of the Cathars, who were the principal reason for the establishment of the inquisition, that precision is lacking. Therefore, while the actions

⁷⁶ Notably for this thesis the following registers:

- 1) Toulouse, 1273-1282 published as *Inquisition and Heretics in Thirteenth-Century Languedoc - Edition and Translation of Toulouse Inquisition Depositions, 1273-1282*, ed. and trans. by Peter Biller, Caterina Bruschi and Shelagh Sneddon (Leiden: Brill, 2011);
- 2) the register of Geoffroy d'Ablis published as *L'inquisiteur Geoffroy d'Ablis et les cathares du comté de Foix: (1308-1309)*, ed. and trans. by Annette Pales-Gobilliard (Paris: CNRS éditions, 1984), 'd'Ablis Register'; and
- 3) that of Jacques Fournier, the Fournier register.

Other documents are scattered round the Doat collection; material from Doat XXVII and XXXVI is referred to here.

⁷⁷ Much of the most relevant correspondence is in *Bullaire de l'Inquisition française au XIVe siècle*, ed. by Jean-Marie Vidal (Paris: Librairie Letouzey et Ané, 1913).

⁷⁸ *Liber de duobus principiis. Un traité néo-manichéen du XIIIe siècle: le Liber de duobus principiis. Suivi d'un fragment de rituel cathare*, ed. by A. Dondaine (Rome: Istituto Storico Domenicano, St. Sabina, 1939).

⁷⁹ See Biller, *The Waldenses*.

⁸⁰ Louisa Burnham, *So Great a Light, So Great a Smoke* (Ithaca: Cornell University Press, 2008).

of the Church and the secular authorities are well documented, the problem they were endeavouring to eradicate remains elusive. This has had considerable effects on the historiography since the 17th century; not only has it made a full assessment of what the authorities did to suppress Catharism impossible but the lack of countervailing testimony has made it difficult even to establish beyond doubt what Cathar beliefs were. It is possible on the basis of Gui's own writings and other material to draw up a substantial picture of Gui's inquisitorial activity; but, as already noted above, that must be done with some scepticism about the reality which underlay his judgments.

Documentation for Eymerich's inquisitorial activity is in some ways sparser than for Gui's in that little is known about many of the cases Eymerich dealt with. There is nothing like Gui's *Sententiæ* which complements the *Practica* by giving details on several hundred cases which Gui resolved. Claudia Heimann has produced a full account of what is known about Eymerich's activity as inquisitor in Aragon but that account is taken largely from Eymerich's own summaries of cases in the *Directorium*.⁸¹ These are examples used to prove the points on inquisitorial practice which he makes in the *Directorium*, and concentrate on legal/theological issues and give little detail of the activities of the accused. Jaume de Puig i Oliver has written an article on Eymerich's inquisitorial activity but this concentrates on the Lull case.⁸² There are lists of inquisition cases in Catalonia from around Eymerich's time, which give very little detail of offences.⁸³ There are also some letters relating to the business of the Aragonese inquisition and court depositions relating to the case brought by the citizens of Valencia against Eymerich in 1367 for his inquisitorial activities.⁸⁴ All this is useful but still leaves gaps in understanding of Eymerich's overall activity.

On the other hand, in some areas the material on Eymerich is much richer than on Gui. There is considerable material in other works which relates to Eymerich's views on issues such as

⁸¹ Heimann, pp. 41-63.

⁸² Jaume de Puig i Oliver, 'Notes sobre l'actuació inquisitorial de Nicolau Eimeric', *Revista Catalana de Teologia*, 28 (2003), 223-230.

⁸³ *Zur Vorgeschichte der spanischen Inquisition; die Inquisition in Aragon, Katalonien, Mallorca und Valencia während des 13. und 14. Jahrhunderts*, ed. by Johannes Vincke, Beiträge zur Kirchen- und Rechtsgeschichte 2 (Bonn: 1941), 'Zur Vorgeschichte'.

⁸⁴ 'Documents Relatius a la Inquisició del 'Registrum Litterarum' de l'Arxiu Diocesà de Girona (S. XIV)' ed. by Jaume de Puig i Oliver, *Arxiu de Textos Antics Catalans* 17 (1998), 381-461, 'Registrum Litterarum'; *Zur Vorgeschichte*, pp. 51-155; and Heimann, pp. 120-33.

the position of non-Christians vis-à-vis the inquisition, or the heresy of sorcerers or the case of Lull and others, and it forms an important supplement to the arguments on these issues contained in the *Directorium*. Material on the Lull case is extensive because Eymerich pursued it doggedly for many years. In short, compared to Gui, there is for Eymerich much fuller documentation on *how* he developed his theories about the extent of the inquisition's role and jurisdiction, but far less material on the precise *grounds* on which cases against those prosecuted by the Aragonese inquisition were based. The exception is the case of Lull where we know in detail from the *Directorium* what Eymerich's objections to his work were; but it would be very helpful to know what the others he prosecuted for heresy had actually done or said.⁸⁵

In addition to material directly relating to Eymerich there are some inquisitorial documents, albeit these are less numerous than in earlier times. A notable example is Grado Merlo's edition of heresy trials in Piedmont, which confirm some of the trends apparent in Eymerich's work.⁸⁶

Beyond manuals and registers, there are a number of other important sources. The first is canon law on the inquisition. Canon law was much the same for Gui and Eymerich. The late 12th and 13th centuries had been the time when most major inquisitorial law was established, including *Ad abolendam* (1184) (establishing secular penalties for pertinacious heretics and extending penalties to supporters), *Excommunicamus* (1231) (establishing the inquisition), and *Ad extirpanda* (1252) (allowing torture and making provision to compel Italian states to pursue heretics). The main exception to this pattern is *Multorum querela*, which was intended to have a major impact on inquisitorial practice, and which was promulgated in 1317 as part of the *Clementines* during Gui's term as inquisitor in Toulouse. Canon law was brought together, initially and unofficially, by Gratian in the 12th century, which did not cover the *inquisitio hereticæ pravitatis*. In the 13th and 14th centuries canon law, including the law on inquisition, was expanded under papal supervision in several stages: *Liber Extra* in 1234, *Liber Sextus* in 1298, the *Clementines* in 1317 (named after Clement V), and the *Extravagantes* of John XXII. All these collections, with the *Decretum Gratiani*, are

⁸⁵ Heimann, pp.40-45.

⁸⁶ Grado Merlo, *Eretici e inquisitori nella società piemontese del trecento: con l'edizione dei processi tenuti a Giaveno dall'inquisitore Alberto De Castellario (1335) e nelle Valli di Lanzo dall'inquisitore Tommaso Di Casasco (1373)* (Turin: Claudiana, 1977).

together referred to as the *Corpus Iuris Canonici*. This exists in published form, which is used in this thesis.⁸⁷ The canon law on the inquisition did not, however, specify exactly how the inquisitors should conduct themselves in their office or interrogations were to be conducted. Both Gui and Eymerich, as well as summarising the law, supplement it by providing guidance, within the law on inquisition, on how an inquisitor should carry out his work. That includes setting out procedure where the law is silent and advising on the interpretation of the law. For example, although canon law allowed torture, there was no guidance on how to obtain confessions; both Gui and Eymerich write extensively on the subject. Similarly canon law in no way prescribed the ceremonies that accompanied abjuration, penance and release to the secular arm; again both Gui and Eymerich describe how this is done in some detail, drawing on past experience.

Terminology

The very term ‘inquisition’ used here is of course shorthand, and must be further defined. There was no administratively unified inquisition throughout Western Europe in the Middle Ages, and each inquisitor had local autonomy over how he carried out the duties prescribed by canon law. But the basic law within which all inquisitors operated was largely the same and where variations did exist they were generally driven by local circumstances, such as the differing secular power structure in Italy, rather than a different philosophy of inquisition. Local autonomy, although theoretically great, was in practice limited, in varying degrees, by the secular authorities and the rest of the Church (the relationships with these two bodies are considered in Chapter III) and its use was shaped by local circumstances. Therefore, while there was no single body called ‘the inquisition’ in the 14th century, there was much in common between the various local inquisitions. One can therefore cautiously talk of ‘the inquisition’ when discussing what was common between inquisitors in the 14th century, but one must always bear in mind local differences. The term ‘Inquisition’ will be reserved for the early modern bodies.

The term ‘Cathars’ is used to refer to those whom Gui calls ‘Manichees’ and who called themselves ‘boni homines: good men’. Strictly the term ‘Cathar’ is inappropriate for Gui’s time and place, but it has become the accepted name. While it might be most appropriate in

⁸⁷ *Corpus Iuris Canonici*, ed. by E. Friedberg, 2 vols (Leipzig: Tauschitz, 1881), ‘CIC’.

the context of this thesis to use the inquisition's terminology, it would not help comprehension.

Structure of Thesis

Some explanation of how this thesis is constructed may be helpful. A section by section comparison of the two works would not be viable. Therefore, to capture best what has changed between the two manuals, a thematic approach has been adopted. This will also allow other contemporary works to supplement Gui's and Eymerich's ideas and establish whether they are representative of wider trends. On this basis the chapters of this thesis will cover the following topics:

- I. Introduction and Historiography.
- II. Style and Sources of Gui's *Practica* and Eymerich's *Directorium*.
- III. Relationships with the Secular Arm and the Rest of the Church.
- IV. The Theatre of Inquisition.
- V. Conceptual Changes in Thinking on Inquisition and Heresy.
- VI. The Inquisitor's Relationship with Suspects and the Role of Torture.
- VII. Conclusions.

Chapter II examines the detail of Gui's and Eymerich's works; this is essential if they are to be used as historical documents. Neither purports to be an historical narrative and both have a normative element. Their nature and context must be understood if they are to be used as historical documents.

Chapters III – VI address four inquisitorial areas in which change can be seen in Gui's and Eymerich's works. Chapter III addresses changes in the relationship between the inquisition and its 'partners', the rest of the Church and the secular arm. These relationships were fundamental to the inquisition's activities. Chapter IV deals with changes in how the inquisition projected its power onto the local population. Chapter V deals with the changes that took place in thinking on heresy, magic, blasphemy and the role of the inquisition; the following chapter, Chapter VI, deals with changes in the inquisition's relationship with suspects, which included a growing systematisation of the use of torture and a demonization of suspects. Finally Chapter VII draws some

conclusions from the evidence in the previous chapters and sketches out in broad terms their consequences.

Chapter II –The Interpretation of Gui’s *Practica* and Eymerich’s *Directorium*

While inquisition manuals are on balance the best sources for understanding how inquisition changed in the 14th century, they must nevertheless be approached with caution. All inquisition records present problems of analysis and interpretation but there are particular issues with manuals. First, as with all historical records, one also has to bear in mind the manuals’ readership and their historical and social contexts. The inquisition existed in, and was affected by, its social and political context; some of the *Practica* for example is more understandable in the context of the Languedoc of the 1320s. Second, any inquisitor’s manual is necessarily normative; it shows to some degree how the author believed the inquisitorial process should be carried out, rather than precisely how it operated in practice. This is a bias that can be found in any text-book and is found in the two manuals. For example, as shown in Chapter VI, the manuals see the prime means of detecting heretics as the period of grace, when heretics can surrender or be denounced. They do not directly mention the other means, for which there is evidence and which inquisitors certainly employed. They were unwilling to discuss explicitly the limitations and realities of inquisitorial power. There was, as it were, an inquisitorial view of reality, a reality constructed by the Church and its inquisitors, which is reflected in many inquisitorial sources. It led those who held it to value highly the authority of the inquisition and therefore to be reluctant to describe directly the compromises necessary for the inquisition’s work. Part 4 of the *Practica*, which at times eulogises the inquisition, is an example of this high estimation of the inquisition. This view is a filter through which both Eymerich and Gui wrote their manuals, although Gui is more ready to give indirect advice about delicate issues. Third, both authors had particular and identifiable aims in writing their manuals, which were wider than the simple transmission of inquisitorial law, procedure and practice. The aim of this chapter is to understand these inherent biases as well as how the *Practica* and *Directorium* were constructed as manuals, so that they can be more effectively used as sources. Other chapters will also look at the manuals in their social and historical context (Chapters III and IV) and the extent to which they are normative and polemical works (Chapters V and VI).

The analysis in this chapter will also extend to two Italian works of the 14th century – the anonymous *De officio* and Ugolini’s *Tractatus*. These works were primarily, but not exclusively, aimed at setting out the law on inquisition and have less to say about the task of

running an inquisitorial process, and so are less useful for our purposes. But, whenever possible, they are used to supplement the two primary works.

Gui's *Practica*

Both Gui's and Eymerich's inquisitorial manuals are substantial; the *Practica* is around 97,000 words in Latin and the *Directorium* around 205,000. The *Directorium* proceeds in a way easily comprehensible to modern readers, giving first a description of the theology of inquisition, then a discussion of inquisitorial law and finally an account of inquisitorial procedure, with detailed guidance at every point. Douais' 1886 edition of the *Practica* can, however, appear alien to modern eyes. It does not seem to hang together and starts *in medias res* without signposts to how it should be read. Apart from Part 5 on heretics and their interrogation, the work has in the past not been much valued.¹ The venerable *Histoire Littéraire de la France* only praises the *Practica* as a mine from which historians could draw useful material; it was certainly not a work of art.² In 1926 Guillaume Mollat only chose to edit and translate into French Part 5 of the *Practica*, which he considered 'the major component of Bernard Gui's work.'³ Jacques Paul, who writes interestingly about Gui's *mentalité*, dismissed the first three parts in 1981 as a vast formulary, which would tell us less than the more concrete *Sententiæ*.⁴

A fuller appreciation of the *Practica*'s significance has more recently superseded this traditional rather negative view. James Given in his book on the inquisition techniques sees value in the other parts of the *Practica* but nevertheless regards the Part 5 as the most interesting; Peter Biller and Lucy Sackville have in various works set out a powerful picture of inquisitors' manuals developing from one another and being influenced by the needs of the

¹ Essentially Part 5 of the *Practica*. This can be found in Douais' Latin version at pp. 235-355; and it constitutes the whole of Mollat's bilingual French/Latin edition (*Manuel de l'Inquisiteur*) and of Wakefield and Evan's translation into English (Walter Wakefield and Arthur Evans, *Heresies of the High Middle Ages Selected Sources Translated and Annotated* (New York: Columbia University Press, 1992), pp.375-445.

² *Histoire Littéraire de la France*, 41 vols, ed. by Charles-Victor Langlois, (Paris: Imprimerie nationale, 1921), XXXV, p. 208.

³ *Ibid.*, p. viii: 'la pièce maîtresse de l'ouvrage de Bernard Gui.'

⁴ Paul, 'La Mentalité de l'Inquisiteur', p. 280.

inquisitorial function rather than literary motives.⁵ Given, Biller and Sackville see the *Practica* as an integral part of the systems the inquisitors developed to deal with the threat of heresy, which drew on a series of inquisitorial manuals and other documents such as legal consultations written in the Languedoc over the previous century. Given has also analysed the *Sententiæ* for its ‘Searchability and Retrievability’, or how easily it could be consulted by a reader, in a way which has informed the analysis here.⁶ The contention in this thesis is that, although Part 5 may be the most historically interesting by virtue of its content, all parts of the *Practica* constitute a more sophisticated and coherent work than is sometimes supposed, and one which can be analysed to provide information on inquisitorial development.

Purpose and Audience

The starting point for the *Practica*’s evaluation must be contemporary sources. The only contemporary evaluation we have is a single sentence from an anonymous life of Gui:

The inquisitor himself (Gui), while serving, also drew up for his successors a book on the practice of the office of inquisition according to the requirements of the matter, divided into five parts, and useful in full measure to inquisitors’.⁷

Alongside this external view, Gui himself also set out his purpose in writing the *Practica* in his introduction.⁸ There are three points to take from these two sources. First, the *Practica* itself makes it plain that the work was aimed at inquisitors in Toulouse, Carcassonne, Albi, Narbonne and neighbouring dioceses.⁹ It was an internal manual for inquisitors in the Languedoc, not intended for outsiders. Nor was it of general application for all inquisitors. Although Gui understood the differences between the Italian and Languedocian inquisitions, his advice on how to run an inquisition derives from his experience in the Languedoc and is

⁵ Given, *Inquisition and Medieval Society*, p. 46; Biller, ‘Umberto Eco et les interrogations de Bernard Gui’, pp.263-64; and Lucy Sackville, ‘The Inquisitor’s Manual at Work’, *Viator*, 44 (2013), 201-16, p.215.

⁶ Given, *Inquisition and Medieval Society*, pp.28-39.

⁷ Contained in BNF MS 4985 and printed in *Bernard Gui et son Monde*, pp. 30-33: ‘Librum quoque de practica officii inquisitionis, secundum materie exigenciam, in partes quinque distinctum, admodum utilem inquisitoribus, ipse inquisitor existens pro successoribus ordinavit.’

⁸ *Practica*, pp. 1-2.

⁹ *Ibid.*, p. 1.

specific to that region. Second, ‘the requirements of the matter’ were an overriding concern; Gui was meeting the practical needs of his audience. The *Practica* is a work-a-day manual for practitioners, not an academic treatise. Third, the anonymous author uses the word *ordinavit* (‘ordered’) in Latin. *Ordinatio* or ordering is central to the methodology of the *Practica* and to the way Gui intended it to work.

It may be useful to reflect on the needs that Gui was endeavouring to meet by writing the *Practica*. First, he certainly wanted to pass on his experience to his successors. The surviving documents from Gui’s inquisition in the shape of the *Practica* and *Sententiæ* are extensive, and there were no doubt copious records of interrogations and other matters which have not survived. The inquisition had been successful in that Catharism was eliminated by the end of the 1320s and in that it had weathered the existential threat from Philippe IV’s actions after the ‘rabies carcassoniensis: Carcassonne rage’ (the disturbances in Carcassonne, witnessed by Gui, which were caused by inquisitorial action in 1303; they are discussed in Chapter III) and new measures like *Multorum querela* and *Nolentes*.¹⁰ There would have been a natural desire to retain and systematise that experience, and indeed, with its use of the word ‘successors’, the medieval life suggests that this was the case.

A quick look at the structure and contents suggests another, and perhaps stronger, reason why Gui wrote the *Practica*. Gui’s work drew on inquisitorial documents produced over the previous century.¹¹ But the nature of the Toulouse inquisition’s work changed substantially during Gui’s time as inquisitor. First, and perhaps most importantly, new categories of

¹⁰ *CIC*, cols 1181-83. The effect of *Multorum querela* was to require the inquisitors to get the agreement of the local bishop to any use of torture or strict confinement or to sentence anyone to ‘release to the secular arm’ or perpetual imprisonment, providing that the bishop or deputy could be reached within eight days. If these requirements were not complied with any action would be null and void. The Bull also required the inquisitors and bishops to run jointly staffed prisons, with the aim that this should preclude any corruption in the prison authorities; and it placed a duty on bishops and inquisitors to pursue those who should be pursued on a charge of heresy, and made it an offence to pursue someone vexatiously. The penalties were excommunication and (for bishops) suspension. *Nolentes* required inquisitors and bishops to return any money extorted from anyone, and churches in particular, on the pretext of heresy, with a sentence of excommunication imposed until the money had been returned; and it enjoined inquisitors not to abuse the right to carry arms conceded to them and not to have more men than they needed. Gui hated these measures.

¹¹ Peter Biller, ‘Umberto Eco et les interrogations de Bernard Gui’, in *Inquisition et Pouvoir*, ed. by Gabriel Audisio (Aix-en-Provence: Presses Universitaires de Provence, 2004), pp.263-64; and Sackville, ‘The Inquisitor’s Manual at Work’, pp.201–16.

heretics emerged, or were created, alongside the Cathars and Waldensians in the shape of the pseudo-Apostles and the Spiritual Franciscans and their lay supporters whom Gui calls Beguins.¹² The latter accounted for some difficult cases in Gui's later years as inquisitor. Second, John XXII asked inquisitors to get more involved with magicians, in part because of his personal fears about attacks by magicians. His re-emphasizing of the link between magic and heresy had consequences for inquisitorial thinking on magic in the future.¹³ John's concerns about magic are reflected in the *Practica*, but their consequences were only fully realised in Eymerich's 1376 inquisitorial manual (see Chapter V). Third, Gui was involved in burning the Talmud, and personally dealt with two cases of re-judaizing Jewish converts to Christianity in the *Sententiae* and probably at least one other case to judge from the *Practica*.¹⁴ Last, the powers of the inquisition were curtailed by being shared with bishops as a result of the 1317 Bull *Multorum querela* mentioned above.¹⁵ All these new tasks had to be carried out by the inquisitors and the materials they used in the Languedoc had to be revised to cope with the changing world. Gui's *Practica* shows how they met that need. That said, the *Practica* was fundamentally conservative; new heresies were treated on the same basis as the inquisition's traditional targets, Catharism and Waldensianism, for which techniques had developed over a long period. For example Gui gave a series of questions (*interrogatoria*) for each new category of heretic which aim to capture whether a heretic subscribes to a particular set of beliefs. These were similar in form to both *interrogatoria* for Cathars and Waldensians in the *Practica* and to a similar set of questions in the previous extant Languedoc inquisitor's manual produced 50 years before (these are discussed further in Chapter VI).¹⁶

According to the medieval life, the audience for the *Practica* was Gui's successors as inquisitors; one can also add that it was not a beginner's book. Its discussion of the reasons for the existence of the *inquisitio hereticæ pravitatis* is perfunctory, referring readers to canon law for a full discussion: a basic knowledge of what the inquisition is and how it works is assumed throughout. Rather the *Practica* aims at showing those who already have some experience of the inquisition how to perform the various tasks that make up the inquisitorial

¹² See Burnham for more detail. In Northern Europe the term 'Beguin' is used to cover a different set of heretics.

¹³ Boureau, *Satan the Heretic*, is a good introduction to this topic.

¹⁴ *Practica*, pp. 49-50.

¹⁵ *CIC*, vol. 2, cols 1181-84.

¹⁶ *Doctrina*, cols 1795-1822.

process.¹⁷ It describes the inquisitorial process from the summoning and arrest of suspects and fugitives (the first 30 documents in Part 1) to the abjuration of the various categories of heretic described in Part 5 and the taking of assurances for bail.¹⁸ Gui works systematically through the various activities which the inquisitors and their staff had to undertake with each suspect. The order in which the various parts of the inquisitorial process is covered is as follows:

Part 1 – collection of specimen documents or formulas for summoning suspects or asking others to catch them, for excommunicating those who fail to appear when summoned and for seeking the views of bishops and legal experts or *iurisperiti* on the inquisitors proposed judgments;

Part 2 – various legal formulas for following up on decisions announced at a *sermo* or imposing, ending or relaxing penalties outside *sermones*, and other formalities conducted outside *sermones*;

Part 3 – formulas for use at a *sermo* – swearing support for the inquisition, releasing heretics from penalties, and sentences of various sorts for those convicted, interspersed with advice on how to conduct a *sermo*;

Part 4 – description of the law on inquisition and how to behave as an inquisitor; and

Part 5 – description of how to conduct interrogations, of the various heretical sects with advice on how to interrogate them, together with lists of questions (*interrogatoria*) designed to elicit whether suspects are heretics and formulas for abjuring the various heresies and taking bail.

Parts 1-3 of the *Practica*

For its first three parts, the form of the *Practica* is that of a medieval ‘formulary’, a collection of specimen documents or formulas to meet exigencies that may arise. It is easy to dismiss

¹⁷ *Practica*, pp. 173-74.

¹⁸ *Ibid.*, pp. 293-303.

these three parts, as Mollat does, as just copying the documents that Gui and his notaries had drafted over the years.¹⁹ But this is to ignore the design that Gui invested in these parts, and to underestimate significantly both the significance of these three parts for practitioners at the time and their usefulness for historians now.

Gui is highly selective in assembling the formulas in Parts 1-3 of the *Practica*. There is some overlap with the *Sententiæ*, but Gui does not simply reproduce documents in an unstructured way. Rather he gives in generic form those parts which remain constant across all cases. For example he gives once in the *Practica* the form of the oath given by the Seneschal and others at *sermones generales*, which is repeated 8 times in the *Sententiæ*.²⁰ Similarly he gives a single formula condemning individuals to carrying crosses once in the *Practica*, whereas it is repeated 8 times in the *Sententiæ*.²¹ The formulas do vary in the *Sententiæ* and Gui is implicitly giving his assurance that the formula in the *Practica* is the best available. He gives directions about how names etc. should be filled in and how the documents can be varied. He gives stage directions for the use of the documents at a *sermo*. For example the form of words for releasing prisoners from captivity with penances in the form of wearing crosses or pilgrimages contains practical advice on the process of abjuring.²² Similarly the form of words for absolving from a sentence of excommunication specifies which psalms to sing and the words the inquisitor should use to perform the absolution.²³ This advice is not available from the *Sententiæ*.

But the *Practica* is far from consisting solely of material which is also found in the *Sententiæ*. Parts 1 and 2 contain no material from the *Sententiæ*; and there is a good deal, even in Part 3, which contains formulas for a use at a *sermo*, which is not found in the *Sententiæ*. 50 pages out of 86 of Part 3 of the *Practica* do reproduce forms of words found in the *Sententiæ*, but 36 contain other material. Nevertheless the fact that the contents of the *Practica* can to some extent be read across to the *Sententiæ* gives confidence that the formulas throughout the *Practica* were used in reality and reflect real cases and events, albeit names, dates and indeed the number of times a formula was used are unknown.

¹⁹ Mollat, *Manuel de l'inquisiteur*, p. xvi.

²⁰ *Practica*, p. 87 and *Sententiæ*, pp.1795-1801.

²¹ *Practica*, pp. 98-100 and *Sententiæ*, pp. 1795 –1801.

²² *Practica*, p. 90.

²³ *Ibid.*, p. 93.

There are four significant sections in Part 3 not reflected in the *Sententia*. The stage directions for a *sermo generalis* (already mentioned) are of considerable value in understanding what went on at such an event.²⁴ There are some details of how the Waldensians are organised which are germane to sentencing.²⁵ There are instructions on how to deal with someone released to the secular arm, but not relapsed, who expresses penitence before the sentence is carried out, which show how to proceed carefully in such cases and to carry out the sentence where the conversion seems ‘feigned or simulated’ to the inquisitors.²⁶ Last the generic piece on the basis of the errors of the Spirituals may be one of the sermons that the inquisitors gave at the beginning of the *sermo generalis*, or a form of words to be used in any case involving a Spiritual Franciscan.²⁷ However it was used in practice, it gives a flavour of the line which the inquisitors took publicly against the Spirituals and their followers.

The formulas given in Parts 1-3 must have been invaluable for Gui’s contemporaries. Drawing up these forms of words would have cost Gui and his notaries, or whoever drafted the document, some effort in the first instance. By leaving these documents to his successors Gui was greatly facilitating their work, which must often have consisted of finding forms of words which correctly reflected the law and the circumstances of a particular case. Going back to the principles contained in the law or legal text-books would have been time-consuming; having a document that could be readily adapted to a new case was by far the quickest method. Gui was using a method which conforms to how practitioners actually work and which is still used today. Modern legal practitioners, qualified or unqualified, who must draft complex legal documents on a variety of subjects choose to use much the same technique. Formulas, like Gui’s, are now available online for a price but are called ‘high quality legal document templates’.²⁸ Parts 1-3 of the *Practica* may well have been at least as important for a medieval inquisitor seeking guidance as Parts 4 and 5.

But the *Practica* is not only a series of templates; its ordering also plays a role in educating inquisitors. Gui arranges documents around particular topics, the first of which sequentially

²⁴ Ibid., pp. 83-86.

²⁵ Ibid., pp. 136-38.

²⁶ Ibid., pp. 144-45: ‘vera sit an simulata: whether it is true or feigned’.

²⁷ Ibid., pp.145–50.

²⁸ ‘Netlawman’ offers for sale modern day formulas online on <<http://www.netlawman.co.uk>>.

in the *Practica* might be described as ‘securing heretics by summoning heretics and witnesses, and/or capturing them’.²⁹ This important part of inquisitorial work had to be undertaken with some care, both to secure the necessary cooperation from the rest of the Church and the secular arm, where necessary, and to avoid any legal complications. There is evidence from the discussion in Part 4 on ‘impediments’ from other Church people and from recalcitrant officials that there was at least a continuing risk that things could go wrong between inquisitors and the rest of the Church and the secular arm.³⁰ Alan Friedlander has also pointed to the Cathar connections of some royal officials that may have made them reluctant to cooperate.³¹ Letters asking others to summon or arrest heretics therefore had to strike the right procedural and legal note as well as covering the necessary detail of the case. The right legal precedent and tone might prove crucial in securing prompt cooperation. It would have been wise to stick to forms of words which have proved effective in the past; if they have produced results in the past they will be the more difficult to disregard by those receiving them.

The first three letters in Part 1 of the *Practica* are to Church figures, seeking cooperation. The first two ask essentially that a *capellanus* summon an individual to appear before the inquisitors on an appointed day.³² The first of these simply asks that the summons be made and that proof of the request’s receipt be given; but in the second case the individual concerned had already been convicted of heresy, had taken off the crosses to which he was sentenced, and might well have absconded. In this case the summons had not only to be given to the heretic but also to be read out in church on the next Sunday with the threat of excommunication. These two examples, when read together, show how summoning should be handled in two different scenarios, when a suspect was likely to comply and when the likelihood was that he would not comply. In the latter case it was important that the summons also be delivered publicly in church. That made it possible for the inquisitors to excommunicate the suspect if he did not answer the summons and put extra pressure on him or her to comply. After a year of non-appearance the suspect could be judged a heretic.³³

²⁹ *Practica*, pp.3-16.

³⁰ *Ibid.*, pp.209–13 and pp.213–14 respectively.

³¹ Alan Friedlander, ‘Les Agents du Roi face à l’Hérésie’, in *Effacement du Catharisme?* (Toulouse: Privat, 1985), pp. 199 – 220.

³² *Ibid.*, pp. 3–4.

³³ *Ibid.*, pp. 177-78.

The third letter is to all religious figures ('Omnibus fidei Christi cultoribus [...]') asking that they arrange for the arrest of Pierre Autier and two others 'wherever they can be found: ubicumque poterunt reperiri', dated 10 August 1309.³⁴ This is heavy on inquisitorial religious imagery, but essentially it asks religious figures to get others to secure the capture of Autier by promising to those capturing and producing heretics eternal mercy and 'even appropriate temporal remuneration: remunerationem condignam etiam temporalem'.³⁵ The operative part of this message may well have been the offer of a reward to entice someone to betray the heretics. Autier was indeed subsequently arrested but it is not known if the reward played a part or was paid. The purpose of this formula would seem to be to indicate a possible course of action when a well-known heretic could not be located. But rather than give the direct advice that rewards should be used in important cases when it was appropriate to do so, Gui gives the advice by example. In Chapters III and IV there are other instances where Gui gives advice on the more 'delicate' aspects of inquisitorial work (that is where the normative rules on inquisitorial work are not followed) in this indirect or tangential way.

Similarly there are two formulas (Letters 4 and 6) asking the secular arm to capture suspected heretics.³⁶ These are both wholly legal in tone, without religious imagery. The first seeks the arrest of a particular person in a particular place, and it is made clear that the request is made with royal authority ('ex parte domini nostri regis Francie').³⁷ A summons is included within the request. The second is non-specific and simply enjoins secular authority to capture 'heretics' (i.e. Cathars) and Waldensians. Again the purpose is to show different approaches in two different scenarios, one where a known individual is sought and the other a more general admonition to cooperate.

The *Practica* both provided useful templates for future use and, by juxtaposing formulas which performed similar but not identical functions, highlighted the practical issues which would arise in inquisitorial work and how different formulations might be suitable for different cases, according to how much knowledge there was about a suspect's whereabouts, whether the suspect was likely to respond to a summons, whether a reward should be offered and whether the secular arm was needed to capture the heretic. The various formulas on

³⁴ Ibid., p. 4.

³⁵ Ibid., p. 4.

³⁶ Ibid., pp. 5-7, except letter 5.

³⁷ Ibid., p. 5.

securing heretics when read together provide a tutorial in the various ways in which heretics can be secured and the various legal points which should be observed.

Some of the formulas still carry dates and even names, and can thereby sometimes be linked to specific *sermones* and cases. This is not necessarily sloppiness, as Mollat suggested; there are possibly good reasons why the date or name might be retained.³⁸ For example two other forms of words in Part 1 have dates, both for writing to bishops, from whose diocese suspects are to be incarcerated indefinitely or released to the secular arm, to establish whether they wish to be involved in the case or give advice.³⁹ In this case the action is clearly caught by the terms of *Multorum querela*, which required the inquisitors to consult bishops in such cases and Gui makes it clear that the second form of words is ‘in accordance with the tenor of the new constitution’.⁴⁰ Its words take account of *Multorum querela*. In this case the dates on the formulas (1 April 1312 and August 1319) show clearly that one is before *Multorum querela* came into force and the other after. A date is included on a form of words giving another inquisitor the power to carry out the duties of Geoffrey d’Ablis, who has just died.⁴¹ The date is perhaps given here because the document is clearly linked to an event of which all Languedoc inquisitors might well be aware and therefore the context is valuable. Again Gui has given thought to conveying particular lessons to his audience by a judicious selection from existing materials.

Perceptions of Gui’s work have perhaps been formed by the fact that the Douais edition, through which most study the Latin *Practica* on a day-to-day basis, subtly misrepresents the first three parts of the work (and Part 5), albeit openly and with good intentions. Gui put at the beginning of each of the first three parts, and the fifth, a table of contents.⁴² This was an essential part of the good *ordinatio* of the text, an effective way of ordering it to make it comprehensible and useable. The good ordering of content in documents, particularly commentary on the Holy Scriptures, the *forma tractatus* (the form of the treatise), was a matter of practical scholarly concern. Content had to be clear (e.g.) for those producing

³⁸ Mollat, p.xvi.

³⁹ Ibid., pp.26–29.

⁴⁰ *CIC*, vol. 2, cols1181-84.

⁴¹ *Practica*, p. 66.

⁴² See TBEP, MS 387, and BL, MS Egerton 1897, where this is evident.

materials for preaching.⁴³ Indeed Malcolm Parkes (already quoted above) specifically mentions this use of the ‘analytic table of contents as a guide to the *ordinatio*’ as one of the scholastic developments of the twelfth century.⁴⁴ Douais chose to relegate precisely these indexes to the back of his edition and use a rather small typeface suitable for an index.⁴⁵ This changes the experience of the work. If Gui’s intentions had been followed, the reader of the printed version, like the reader of the manuscript, would be made aware of the shape and progression of each part before beginning the first item in a way which made the table an integral part of the text. The sense of starting *in medias res* is eliminated. Medieval inquisitors took care in their presentation; Lucy Sackville makes a similar and cogent point about the organisation of inquisitors’ manuals in manuscript, in particular their use of colour and ornament to help navigate the text; manuscripts were carefully orchestrated documents.⁴⁶

Last it is worth saying that a formulary, that is a collection of documents for use in a number of different situations, like that contained in Parts 1-3 of the *Practica*, was not in Gui’s time a low prestige model. Olivier Guyotjeannin writes:

In the chancelleries, editors had at their disposal formularies, that is collections of formulas used for the drawing up of acts and, if necessary, for the training of the drafters. They are most often composed of real documents, placed end to end to make up a large panorama of diplomatic production.⁴⁷

Part 4

Part 4, which describes the legal powers of the inquisitors is rather different in its approach from the other four parts of the *Practica*, which all essentially consist of pre-existing

⁴³ Alastair Minnis, *Medieval Theory of Authorship* (Philadelphia: University of Pennsylvania Press, 1988), pp.145-59.

⁴⁴ Malcolm Parkes, ‘Ordinatio and compilatio’ in *Medieval learning and literature: essays presented to Richard William Hunt*, ed. by J. J. G. Alexander and M. T. Gibson (Oxford: Clarendon, 1976), pp. 115-41, (p. 122).

⁴⁵ See footnotes in *Practica*, pp. 3, 35 and 83.

⁴⁶ Sackville, ‘The Inquisitor’s Manual at Work’, p. 206.

⁴⁷ Olivier Guyotjeannin, *La diplomatique médiévale* (Turnhout: Brepols, 1993), p. 230: ‘Dans les chancelleries, les rédacteurs peuvent disposer de formulaires, c’est-à-dire de recueils de formules destinés à la rédaction des actes et, éventuellement, à la formation des rédacteurs. Ils sont le plus souvent constitués de documents réels, mis bout à bout pour former un large panorama de la production diplomatique.’

formulas, other pre-existing texts and Gui's comments, put together in differing proportions. Rather, as noted in Chapter I, Part 4 is based on one pre-existing, which begins '*Quoniam ipsa experientia facti*'.⁴⁸ This text has recently been the subject of a doctoral thesis by Stephania Pirli, which is named after the title used in some Italian manuscripts – *De Auctoritate et Forma officii inquisitionis*.⁴⁹ Pirli has produced an edition based on a number of texts of this document, most in Italy. Pirli dates the work between 1268 and 1277.⁵⁰

Mollat was disparaging about Gui's habit of using others' work, particularly in Part 5 (he talks of 'plagiarism without shame'), but modern scholarship would perhaps see this re-use of materials in both part 4 and part 5 more in its contemporary context.⁵¹ Gui would, as an administrator, have been well aware of the cost of a wholly new work in both time and money; and he had no reason to abandon proven materials.

Gui's approach was to follow the basic text of *Quoniam* but to amend it thoroughly. He added thoughts of his own to the original text and far more legal detail (the law had changed in the 50 years since *Quoniam* was written and he wanted to give all legal precedents); and he sometimes preferred his own words, usually with the aim of clarifying what was in his view obscure in the original text. As a result *Quoniam* was considerably extended as well as amended. The original was around 11,500 Latin words, Gui's 24,000. But, because Gui used the tone and structure of *Quoniam*, much of the force of the original remains, albeit intensified and clarified. For example Part 4 emphasizes the inquisition's size and magnificence referring to the 'greatness: *magnitudo*' of its powers.⁵² The message is repeated elsewhere: (e.g.) the inquisition 'has profound solidity and vigour of virtue and strength in its work and action.'⁵³ Although the basic thoughts were there in *Quoniam*, Gui has re-written the text to bring out the force of the simile more strongly.⁵⁴ While this can of course be seen at one level as a realistic description of the inquisition's extensive powers, one can also perhaps detect in it an attempt to persuade or reassure his audience that the inquisition

⁴⁸ Mollat, *Manuel de l'inquisiteur*, pp. xvi–xxv. *Quoniam ipsa experientia facti* is contained in BNF, MS Doat XXXVI 1r–36.

⁴⁹ Stephania Pirli, 'De Auctoritate et Forma Officii Inquisitionis'..

⁵⁰ *Ibid.*, p. XVII.

⁵¹ Mollat, p. xxii.

⁵² *Practica*, p. 175.

⁵³ *Ibid.*, p. 176: 'habet profundam soliditatem et vigorem virtutis et fortitudinis in sua operatione seu actione.'

⁵⁴ BNF, MS Doat XXXVI, fol. 4r.

remains strong and vigorous following the introduction of *Multorum querela* and *Nolentes* in 1317 (Gui's considerable concerns about these Bulls are discussed in Chapter III, but they inevitably influence his drafting).

Part 4 is not easy to follow, in part because of a lack of clear signalling in the text, but also because of the rather complex literary nature of the (inherited) form. An analytical table at the front might have enhanced accessibility although uniquely this Part lacks one in manuscript. In its defence one can argue that the extensive use of simile is designed to give a framework within which the various powers of the inquisition might be memorised. Mary Carruthers has detailed how medieval writers, drawing on classical sources, thought that architectures might be devised within which detail could be memorised.⁵⁵ Gui invites his readers to memorise the powers of the inquisition against the various qualities, the first being *magnitudo*, which is sub-divided into *altitudo*, *longitudo*, *profunditas* and *latitudo*.⁵⁶ Whether this was an effective device for committing the powers of the inquisition to memory is difficult for a modern reader to judge; but it may be one reason why Gui chose to retain this structure from a pre-existing work.

Part 5

Part 5 is the best known part of the *Practica*, because it deals with heretics and has often been used by those seeking to understand 13th/14th century heresy. It was not conceived as a separate work; it has considerable structural similarities with the rest of the *Practica*. As in Parts 1-3, Douais' edition changes the analytical table of contents at the beginning into an index.⁵⁷ Much of Part 5 is, like Parts 1-3, a formulary, although the proportion of formulary to other material in Part 5 is lower than in Parts 1-3; and like Part 4, Part 5 draws on pre-existing material e.g. in the section on Waldensians. Equally there are sections, e.g. on Manichees (Gui's preferred name for 'Cathars' or '*boni homines*') or on Beguins, where no source has been identified.⁵⁸

⁵⁵ Mary Carruthers, *The Book of Memory: A Study of Memory in Medieval Culture* (Cambridge University Press, Cambridge, 2008), pp.18 – 55.

⁵⁶ *Practica*, p.175.

⁵⁷ *Ibid*, p. 235.

⁵⁸ *Ibid*, pp. 237-44 and pp. 264–87 respectively.

Some argue that heresy was, to a degree at least, a category imposed on beliefs which were far removed from orthodoxy.⁵⁹ That argument is given more force if it can be shown that inquisitors relied on stereotypical descriptions of heretics. Gui's borrowed sections on Waldensians might, for example, be held to indicate that Gui lacked personal experience of Waldensians, even though, since he sentenced some 92 Waldensians, he should have been personally knowledgeable about them.⁶⁰ Gui mentions drawing on some *summulae* which contain information about the Waldensians.⁶¹ Mollat identified four, the most significant being the pseudo-David of Augsburg from which Gui drew at least one whole section and Étienne de Bourbon, from whom Gui derives most of section 8.⁶² This section, although included in the apparently Waldensian section, deals with heretics more generally, as Peter Biller has pointed out.⁶³

But although Gui uses sources for particular points he uses those sources to fill in gaps in his knowledge or perhaps to get the authoritative view. It is not a simple 'cut and paste'. If Gui uses others' words it is almost certainly because they represent his views. For example pseudo-David of Augsburg's words are used as an introduction (first four lines) to section 3 of the Waldensian section. But Gui then goes on to add his own text, presumably drawing on his own experience. The exception to this pattern is section 7 where Gui uses pseudo-David of Augsburg's description of an interrogation of a Waldensian almost entirely, with only a small amount of editing.⁶⁴ While pseudo-David presents this as coming directly as coming

⁵⁹ e.g. 'Actes du 7e colloque'; and Mark Pegg, 'On Cathars, Albigenses, and good men of Languedoc' in *Journal of Medieval History*, 27:2 (2001), 181-95.

⁶⁰ *Sententia*, p. 1646.

⁶¹ *Practica*, p. 248.

⁶² See Mollat, *Manuel de l'inquisiteur*, p. xix. The four works are :

a) Étienne de Bourbon, 'De septem donis Spiritus Sancti' ed. (partially) by A Lecoy de la Marche in *Anecdotes historiques, légendes et apologues tirés du recueil inédit d'Étienne de Bourbon, Dominicain du XIIIe siècle*, collection de la 'Société de l'histoire de France (Paris: 1877);

b) 'Disputatio inter catholicum et paterinum hereticum' in Martène et Durand, V, cols 1754-56;

c) a consultation with the bishop of Tarragona, in Martène et Durand, V, col. 1800; and

d) *De inquisitione hereticorum*, ed. by W Preger in *Abhandlungen der historischen Klasse der Königlich bayerischen Akademie der Wissenschaft*, vol. XIV 2nd part (1878), 204-35.

⁶³ Biller, 'Umberto Eco et les interrogations de Bernard Gui', p. 263.

⁶⁴ *Practica*, pp. 252-55.

from his own experience, Gui presents this as a generic picture of Waldensian behaviour.⁶⁵ But if it is accepted that Gui's intention was didactic the inclusion of this section is understandable in that, regardless of any standard of factual accuracy, it prepares inquisitors for the sort of difficulties they may face interrogating Waldensians. A modern training manual would similarly contain case studies which help prepare those reading it but which do not necessarily reflect an actual case. However, underlying Gui's use of the pseudo-David's text is a belief that Waldensianism is a single fixed pathology consistent over time and space. This view of heresy, be it Catharism or Waldensianism, underpinned the methods of the Toulouse inquisition and its use of external signs to establish belief, a subject which is discussed further in Chapter V.

Part 5 of the *Practica* is rich in passages which seem to reflect the author's, Gui's, voice. The introduction to Part 5 should be particularly noted for this, and contains, for example, a section on the greater distress caused to an inquisitor if a guilty man goes free than if an innocent man is punished; and on how there is no single way of interrogating.⁶⁶ There can be no final certainty that these are Gui's own words; individual words and phrases may well have been taken from elsewhere. One of Gui's most dramatic phrases, 'extracting the crooked snake from the abyss of errors', is not his own, as Christine Caldwell Ames has noted, but is based on words in Raymond de Peñafort's *De penitentia*.⁶⁷ That said, Gui has worked it into a passage which, while drawing on others' thinking, expresses his ideas. Part 5, although it draws on pre-existing material, is very much the product of an author who had definite views and did not simply accept previous authority unquestioningly. Whether or not particular words were Gui's, the use of an authorial voice which comments on particular issues is an effective way of giving advice. The contrast between the author's voice and the formal language is striking.

⁶⁵ Martène et Durand, V, col. 1790: I heard all these interrogations and responses even from those heretics who afterwards were converted [...]: Omnes istas interogationes et responsiones audivi etiam ab illis haereticis qui postea sunt converti [...].

⁶⁶ Ibid., p. 236.

⁶⁷ See *Practica*, p. 237; Christine Caldwell Ames, 'Doctors of Souls: Inquisition and the Dominican Order, 1231-1331' (unpublished doctoral thesis, University of Notre Dame, 2002), p.107; and St. Raymond de Peñafort, *Summa de Pœnitentia et Matrimonio* (Rome: 1603), p. 463.

Assessment of the *Practica*

Gui's *Practica* is a drawing together of pre-existing material (in the case of the formulas, the words were ones for many of which Gui had probably been responsible) together with a very considerable addition of Gui's own views and some editing. It was a management manual for practitioners, a didactic exercise, not an academic treatise. It was a sophisticated and well-organised work which aimed to pass on complex messages. It followed high prestige models and contained material of value for its intended audience. One of the notable features of the work is the use of an authorial voice adding nuance to otherwise factual material, which is again a unifying device; it seems to be one of the first inquisition manuals which has a strong authorial presence.

There is every reason, given the care that Gui has taken with this work, that it reflects exactly what he wished to say on heresy and that in essence it represents a true picture of the world as Gui experienced it. Peter Biller reached this conclusion in a piece already referred to; he asked the question: 'Le contenu de ce livre (*la Practica*) n'est-il qu'une construction textuelle?'⁶⁸ His answer is that the *Practica* is corroborated by the textual evidence in the *Sententiæ* and elsewhere, which can give us confidence in the historicity of the work.⁶⁹ In fact the *Practica*, because it was in large part drawn from the actual work of the inquisition, was probably an accurate reflection of the inquisition's activities, although Gui chooses to address some aspects of the inquisition's activities indirectly.

The Anonymous *De Officio Inquisitionis* and Ugolini's *Tractatus super materia hereticorum*

Two Italian inquisitors' manuals were broadly contemporaneous with Gui, the *De Officio Inquisitionis* dated at 1320-25, the *Tractatus super materia hereticorum* at 1330. Both works have considerable strengths; if this thesis pays less attention to these works than Gui or Eymerich it is because the Italian manuals provide less information on inquisitorial practice than either the *Practica* or the *Directorium*.

⁶⁸ Biller, 'Umberto Eco et les interrogations de Bernard Gui', p. 259.

⁶⁹ Ibid., pp. 260-67.

Antoine Dondaine had a high opinion of *De officio*. He approved of its division into three parts (officers of the inquisition, heretics and others before the tribunal and the carrying out of the office of inquisitor); he found the explanation systematic and reasoned (*raisonné*): ‘The text allies simplicity with wisdom’.⁷⁰ Indeed Dondaine thought the two Italian works better from the point of view of composition and precision than Gui’s.⁷¹ At one level it is hard to disagree that for the modern academic, and perhaps for a medieval academic, both would be an easier read; but Gui’s work, as already argued, has the merit as a work for practitioners of being focussed on practical issues.

De officio Inquisitionis is largely content to reproduce the law with some guidance on how to interpret the law; it does not give the advice that Gui and Eymerich give on how to use the law and arrange inquisitorial business, and on heresies and heretics.

Ugolini’s *Tractatus super materia hereticorum*, according to Dondaine, is the most formal and the most advanced (*évolué*) of the manuals he considered.⁷² He saw Ugolini’s work as marking a transition from the inquisition being an ‘exceptional juridical matter’ (‘fait juridique d’exception’) to being taken over by the jurists who endeavoured to make it a normal part of the law. This led to greater precision, to the advantage of suspects, but also reinforced the inquisition itself.⁷³ Ugolini’s work took a legal text-book approach to the process of inquisition and was above all a clear exposition of the law on inquisition with sources given. But it does not lack interest. It contains sections on torture and on magic which are helpful in understanding how these two issues developed.⁷⁴ What Ugolini does not have are the extensive formulas for different parts of the inquisitorial process; there are no *interrogatoria* and no guidance on how to question suspects; and no descriptions of heresy. There is not the desire to get each stage of the process right which is evident in Eymerich who spells out procedures in great detail. This may indicate that Dondaine’s judgment about the jurists’ takeover being correct. But Peter Diehl suggests that Ugolini was unconcerned about particular heresies because Catharism,

⁷⁰ Antoine Dondaine, ‘Le Manuel de l’Inquisiteur (1230-1330)’ in *Les Hérésies et l’Inquisition, XIIe-XIIIe siècles/ documents et études*, ed. by Yves Dossat (Aldershot: Variorum, 1990), p.119.

⁷¹ *Ibid.*, p. 117.

⁷² Dondaine, p. 122.

⁷³ *Ibid.*, p. 123.

⁷⁴ *Tractatus*, p 49 and pp. 152-70 respectively.

which had been the major heretical threat in Italy, was fading; and the newer heresies (Spiritual Franciscans and the Heresy of the Free Spirit) were either outside Ugolini's competence to describe or he felt no need to do so when others were competent to define heresy.⁷⁵ It should also be noted that some six manuscripts of Ugolini's work survive and it was printed four times in the 16th century.⁷⁶

Eymerich's *Directorium*

Eymerich's work presents less of a conundrum to modern eyes than Gui's. It does not have the initial feeling of strangeness that the *Practica* has, and there is far less need to explain why it might have been attractive to a medieval or early modern audience. It is a clear exposition of inquisitorial theology, law and practice. But it is also a more polemical work than Gui's, with wider aims and ambitions, based on an experience of inquisitorial work which was different from Gui's, in particular because it involved serious conflict with the secular power. It is an intellectual's work, reflecting a wider interest in theological matters.

Why was Eymerich's work written? The *Directorium* starts with a letter written by Eymerich setting out the purpose of his work.⁷⁷ Although his broad intention like Gui is to help and guide inquisitors, there are some significant differences. First although Eymerich presents the *Directorium* as being for members of his order, the Dominicans, in the kingdoms of Aragon, it is not narrowly focussed on a particular geographical area. Its instructions are couched in generic terms.⁷⁸ It was a manual which could be used by any inquisitor, unlike Gui's which was aimed at inquisitors in the Languedoc.⁷⁹ More generally, while Gui's preface is a workmanlike description of contents, Eymerich's gives much fuller reasons for writing his work. One primary reason for his work is that it provides a useful compendium of the various authorities which govern the practice of inquisition, which otherwise are located in different places, which is 'cross-referenced: concordatum' and 'paginated: compaginatum'; at the heart

⁷⁵ Peter Diehl, 'An Inquisitor in Manuscript and in Print: The *Tractatus super materia hereticorum* of Zanchino Ugolini', in *The Book Unbound*, ed. by Siân Echard and Stephen Partridge (Toronto: University of Toronto Press, 2004), p. 60.

⁷⁶ *Ibid.*, pp. 60-61.

⁷⁷ *Directorium*, pp. 1-2, BM, fols I^r-I^v.

⁷⁸ *Ibid.*, p. 1, fol. I^r: '[...] Venerabilibus patribus, fratribus eiusdem ordinis in Christi visceribus prædilectis universis et singulis Commissarijs Vicariisque nostris in terris et regnis præfatis (i.e. terris et regnis Aragonæ) ad peragenda sancta fidei negotia destinatis, Salutem [...].'

⁷⁹ *Practica*, p. 1.

of Eymerich's work is a desire to make existing law easily understandable and accessible.⁸⁰ Eymerich was filling a gap he saw in the market. Although Ugolini had written a good account of inquisition law and Gui a useful work for practitioners on how to conduct an inquisition in all its stages, there was no work which combined both law and practice, and which included a full theological justification for the inquisition. As for presentation, of all the 14th century manuals, Eymerich's work was probably the easiest to use and the most accessible (Dondaine's work did not extend to Eymerich and he makes no comment on the *Directorium*).

Eymerich's work undoubtedly formed part of efforts by Gregory XI (1370-78 – he was the last pre-Great Western Schism pope) to revive the inquisition by, for example, appointing new inquisitors and increasing its focus on magic.⁸¹ The *Directorium* was completed in 1376 in Avignon where Eymerich was in exile in proximity to Gregory XI, with whom he seems to have had a close working relationship. It is unthinkable that Eymerich would not have had some sort of agreement or encouragement from Gregory in publishing his work.

But he also had a more personal agenda in writing the *Directorium*. His own work as an inquisitor had concentrated on magic and on heresies in academic work notably Lull, and he had been expelled from Aragon. He may well have wanted to record in the *Directorium* the thinking he had reached in his own work on invoking demons and to justify his own work as inquisitor notably in the cases of Lull and Astruc de Pieira. His account of the Astruc de Pieira case, where he prevailed against royal opposition, has an almost triumphal tone.⁸² There is an element of *apologia* throughout the work. There is also in Eymerich's introductory letter a conception of the inquisition's role which is subtly different from Gui's. Eymerich sees heresy as directed by the Devil. He talks of heresy as the 'Tortuous snake, [...] exuding venom, which is Satan and the Devil: Serpensque tortuosus, [...] efflans virus; qui est satanas et diabolus [...].' and sees the work of the 'holy inquisition' (a phrase not used by Gui) as being directed to '[...]the ignominy of the Devil as well as the glory of God [...]: '[...] ad Dei gloriam, et ad diaboli ignominiam [...]' .⁸³ Gui did not mention the link between heresy and Satan in the same

⁸⁰ *Directorium*, p. 2, BM, fol. I^r.

⁸¹ For inquisitors see Paul Thibault, *Pope Gregory XI: the failure of tradition* (London: University Press of America, 1987), pp. 190-91; for magic see Joseph Hansen, *Quellen und Untersuchungen zur Geschichte des Hexenwahns und der Hexenverfolgung im Mittelalter* (Bonn: Carl Georgi Universitas Buchdruckerei und Verlag, 1901), pp. 15-16, 'Quellen'.

⁸² *Directorium*, pp 250-51, BM, fols CVII^r-CVII^v.

⁸³ *Ibid.*, pp. 1-2, fols I^r-II^v.

way. The link itself was not new and had been made by other writers on heresy such as Caesarius. But it reflects the fact that Eymerich saw heresy less an intellectual and human phenomenon and more as a spiritual attack, which in turn was a central part of his approach as an inquisitor (see Chapter V).

Part 1

Eymerich's work is divided into three parts. The first of these – 'On the Catholic Faith' – gives the theological justification for suppressing heresy through the inquisition. Most of this part, some 86%, is taken up with theological/canon law statements from Innocent III, Augustine, Gratian, Justinian and Boniface VIII and others. These are chosen to establish a set of propositions that conform to a Dominican or Eymerician conception of faith and heresy. The content of Part 1 is discussed in Chapter V, but there are two things to note about the form of this part. First Eymerich was careful to reproduce the legal sources which confirmed the theological view he expounded through the *quaestiones*; he also relies heavily on Aquinas' *Summa Theologica*. Although Aquinas could not compete in popular circles with (e.g.) Raymond Llull, he was central to Dominican thinking, and studied throughout the Dominican Order as well as by some Franciscans. Aquinas also addressed heresy in ways that were helpful to Eymerich.⁸⁴ All the *quaestiones* in Part 1 refer back to Aquinas' thinking.

Second, Eymerich's *quaestiones* rarely raise doubts or contrary opinions. They simply state Eymerich's interpretation of his sources and what in Eymerich's view Church doctrine was. There is none of the delicate consideration of opposing viewpoints which one finds in Aquinas. This pattern is carried forward into the *quaestiones* in the other two parts of the work. One might defend this by saying that an inquisitorial handbook, in effect a police and judicial manual, is not the place for doubt. *Quaestiones* were a scholastic commonplace and could vary in form. Eymerich's *quaestiones* bear a strong resemblance to the modern device of 'Frequently Asked Questions', which appear in many documents and on many websites.

⁸⁴ Jocelyn Hillgarth, *Who read Thomas Aquinas?* (Toronto: Pontifical Institute of Mediaeval Studies, 1992), pp. 30-31.

Part 2

The pattern in the first part of the *Directorium* is carried on in the second with some variation. This part sets out the sources of canon law on heresy going back to ‘Pope Stephen’. It also gives the main commentaries, the glosses, on canon law. These include the (canon legal) *Glossa ordinaria*, and Hostiensis and Joannes Andreae for the *Liber extra*; the *Glossa ordinaria* and the ‘Archdeacon’ (Guido de Baysio) for the *Liber Sextus*; and the *Glossa ordinaria* and Paulus de Liazariis for the Clementines. These represent a standard and authoritative list of canonists. The main operative part is, again, a series of 58 *quæstiones*, giving a clear statement of the law on heresy backed up by reference to sources. They are broadly divided into two parts, the first dealing with heresy (*Quæstiones* 1-29), the second (*Quæstiones* 30-58) with heretics. The definition of heresy given by Eymerich (*Quæstio* 2) is that used by Aquinas in the *Summa Theologica* and Eymerich is able to find a considerable number of heresies, not least non-Christian philosophers, in particular Aristotle, Averroes, Algazeli and Maimonides (*Quæstio* 4).⁸⁵ *Quæstiones* 7-23 deal with a number of heresies specifically condemned in times close to Eymerich and in particular those in which he was involved, including Raymond Lull and some other Aragonese heretics. Raymond Lull gets considerably more coverage than any other individual heretic, although Beguins get as much analysis. Interestingly Eymerich, while giving the basic facts about each heresy, does not in every case explain in what way each heresy was heretical, or what article of faith the heresy contravened. However there are some heresies where he does explain the nature of the heresy. In the case of the *fraticelli* an analysis of their particular heresy is given, perhaps because the case was of great, and still fairly recent, importance.⁸⁶ Eymerich gives the arguments of the *fraticelli* and the responses of John XXII. He includes papal condemnations in several other cases e.g. the Pseudo-Apostles and Beguins, again perhaps because they remained of some contemporary significance.⁸⁷ *Quæstiones* 23-29 deal with banned books, a section which includes the Bull (*Conservationi puritatis*) against Lull, which of course Eymerich was instrumental in procuring. The remaining *quæstiones* (*Quæstiones* 30-58) deal with heretics as distinct from heresy.

⁸⁵ Aquinas, *Summa Theologica*, 1.32.4 and 2.2.11.1- 2.

⁸⁶ *Directorium*, p. 216-19; BM, fols LXXXVIII^v-XC^v.

⁸⁷ *Ibid.*, p. 203, fol. LXXXI^r (pseudo-apostles) and pp. 211-13, fols LXXXVI^r - LXXXVII^r (beguins).

All the *quaestiones* are cross-referenced to various sources – canon law and glosses - and Eymerich carefully weighs the legal precedents to arrive at a clear statement of the law as it then stood. At one point he criticises the law as being unclear and suggests the Pope be consulted.⁸⁸ But this is not simply a text-book which simply endeavours to set out the law correctly. For example *Quaestio* 41 deals with blasphemers, but does so at length in a tendentious way which seemingly aims to expand the jurisdiction of the inquisition.⁸⁹ This is dealt with more fully in Chapter V and was seemingly an issue which Eymerich had tried to promote against opposition and perhaps against the accepted way of doing things. There is a letter from the bishop of Gerona to Eymerich indicating that Eymerich had tried to muscle in on the bishop's jurisdiction over blasphemy: 'And since, as you know, it is a matter for us and not for you [...] to investigate and punish those blaspheming God and the saints in our diocese [...]'.⁹⁰

This endeavouring to extend the jurisdiction of the inquisition is a pattern of behaviour repeated elsewhere in the *Directorium*, notably in the extension of inquisitorial law on magic to non-Christians.⁹¹ Magic is an area which Eymerich is keen to promote as part of the inquisition's jurisdiction.⁹² Indeed, Eymerich's own interests as an inquisitor (e.g. Llull, magicians and blasphemers) are covered in more depth (21% of the whole chapter) than topics where the law is clear (these issues are discussed in Chapter V). Eymerich's seemingly neutral text-book also promotes his view on the nature of inquisition.

Nevertheless, despite this polemic content, what stands out in the *Directorium* is its orderliness and clarity. Edward Peters put it thus: '[...] the *Directorium* reflects better than Gui's work the accommodation of juridical theology to the operation of the Inquisition that had been reached by the fourteenth century.'⁹³ This judgment seems valid. In fact Eymerich had the gift of being

⁸⁸ Ibid., p. 264, fol. CXIII^r.

⁸⁹ Ibid., pp. 232-34, fols XCVII^v-XCVIII^v.

⁹⁰ 'Documents Relatius a la Inquisició del 'Registrum Litterarum' de l'Arxiu Diocesà de Girona (S. XIV)', ed. by Jaume de Puig i Oliver, in *Arxiu de Textos Antics Catalans 17* (Barcelona, Facultat de Teologia de Catalunya, 1998), pp. 415–16: 'Et cum, ut scitis, ad nos tantum, non ad vos, [...] pertineat inquirere et punire Deum et sanctos blasfemantes in nostra diocesi [...]'.
⁹¹ *Directorium*, pp. 244-51, BM fols CIII^r-CVII^v.

⁹² Ibid., pp. 234-42, fols XCVIII^v - CII^v.

⁹³ Edward Peters, 'Editing Inquisitor's Manual in the Sixteenth Century: Francesco Peña and the *Directorium* of Nicolas Eymerich', *The Library Chronicle of Pennsylvania*, XL (1974), 95-107 (p. 96).

able to deconstruct a legal issue in a way that makes it accessible to practitioners. The explanations of (e.g.) *levis*, *vehemens*, and *violenta suspicio* in *Quaestio 55* are a model of clarity, as well as being comprehensive.⁹⁴ This may well be one of the principal reasons why his work proved successful in the longer run.⁹⁵

Part 3

The third part of Eymerich's *Directorium* states its purpose clearly: 'The third part of this directory of the office of inquisition is about the practice of that office'.⁹⁶ It starts with a description of how to set up an inquisition; how to call a *sermo generalis*; how to carry out the inquisition, which contains practical advice about individual heresies; and how to dispose of particular cases. It finishes with 131 *quaestiones* about carrying out the inquisitor's functions. It is a mixture of practical and legal advice and, like Gui, contains formulas for particular tasks. What is particularly striking is the attention to detail. Eymerich sets out 13 ways of terminating a case depending on whether the suspect is to be absolved, canonically purged, tortured or is to abjure.⁹⁷ Abjuring varies according to the level of proof – *levis*, *vehemens* or *violenta*. Disposal also depends on whether the suspect is penitent or not and whether he is relapse or not. It could be argued that this should be considerably reduced with a single narrative with variations. That would certainly be shorter; but Eymerich perhaps wanted to make sure that each possible disposal of a case was described with no possibility of misunderstanding. Eymerich was conscious like Gui of writing a manual for practitioners.

Until Part 3 Eymerich has used either theological or canon law sources but he now brings in other sources, in part because canon law did not prescribe procedural issues in any detail and they were therefore left to inquisitors to devise. The formula letters and other documents which he recommends may well be ones which he used himself. The letter which Eymerich recommends the temporal lord gives the inquisitor to help secure cooperation was the same as

⁹⁴ *Directorium*, pp. 258-60, BM, fols CXI^r - CXII^r.

⁹⁵ See Heimann, p. 99: '[...] die Grundlage für den Erfolg des Werkes: Die Reichhaltigkeit des Materials, das in einer wohldurchdachten Struktur und Gliederung leicht zugänglich gemacht wurde.'

⁹⁶ *Directorium*, p. 267, BM, fol. CXIII^r: 'Tertia pars huius directorii officii inquisitionis est de practica huius officii [...].'

⁹⁷ *Ibid*, pp. 310-48, fols CCXXXIII^r - CXLIX^r.

one sent by Peter IV to Eymerich.⁹⁸ Some 41 pages of Part 3 are in large part a formulary *stricto sensu*, that is a series of forms of words to be used at various stages in the *inquisitio* procedure (e.g. letters, summonses) and which together constitute a description of how to carry out inquisitorial procedures.⁹⁹ They are interspersed with advice or directions about procedure, an approach similar to Gui's. Another section consists of formulas for concluding cases in various ways.¹⁰⁰

It can at times be seen how parts of the *Directorium* are built up from other texts, not least Gui's. In discussing the interrogation of heretics Eymerich draws on the opening section of Gui's Part 5.¹⁰¹ He does not reproduce Gui's work *verbatim*. Rather he takes Gui's words and reproduces them in his own language with more or less changes for the sake of greater accuracy or preferences of style. Eymerich does not add to Gui's basic thought that different heretics require different ways of interrogation, although he keeps Gui's two striking phrases: 'as a prudent doctor of souls: ut prudens medicus animarum' and 'the twisted snake (of heresy) is taken out: educatur coluber tortuosus', which is not all Gui's own work as noted above. What Eymerich does add is more precise language and theological knowledge, which betrays the differences in his thinking on inquisition from Gui's. For example, where Gui talks of 'all heretics of diverse sects: omnes hereticos diversarum sectarum', Eymerich expands the idea of heretics of 'diverse sects' to heretics of a variety and diversity of sects, heresies and persons and errors: *varietatem ac diversitatem sectarum, hæresum, ac personarum, et errorum*'. This shows that for Gui a heretic was defined by being a member of a sect. Eymerich does not see belonging to a sect as a necessary precondition for being a heretic. This reflects the different approaches towards heresy, which are explored further in Chapter V.

There are a number of points in the text of the *Directorium* where Eymerich uses the same words as Gui uses as a starting point, which may be either Gui's own words or ones he has drawn from elsewhere. For example, Eymerich devotes a section to the ten 'ways of heretics being evasive or using sophisticated words; modi [...] hereticorum evadendi et sophisticandi verba', which reproduces similar material to that which Gui reproduces about the Waldensians (itself drawn from Etienne de Bourbon (section 8) and pseudo-David of Augsburg (section

⁹⁸ Ibid., pp. 267-68, fols CXIII^r-CXIII^v; and *Zur Vorgeschichte*, pp. 104-05.

⁹⁹ Ibid., pp. 303-44, BM, fols CXXXI^r-CXLIX^v.

¹⁰⁰ Ibid., pp. 310-48, fols CCXXXIII^r - CXLIX^r.

¹⁰¹ *Practica*, pp. 235-37, and *Directorium*, pp. 288-89, fols CXXIII^r - CXXIII^v.

7).¹⁰² Eymerich confidently systematizes this learning and refines the methods of deception to ten categories. In developing his 10 methods Eymerich draws heavily on Étienne de Bourbon/Gui's passage for most of his categories (6 out of 10 categories are taken directly from them).

How far the operational parts of the *Directorium* represent Eymerich's actual practice is difficult to judge. Relatively little is known about Eymerich's day-to-day activity as an inquisitor. Our knowledge of individual cases is limited to cases which Eymerich describes in the *Directorium* and there is little of the comprehensive documentation (sentences or interrogations) which makes the Languedoc a rich area for study. Rather more is known about a few major cases like Llull but they are exceptional and may not represent normal practice. There is also little corroboration that any of recommended formulas or techniques in the *Directorium* were actually used in Eymerich's time. An exception is the letter of royal support for the inquisitor's work mentioned above which is found in specimen form in the *Directorium* as well as in Vincke's compendium of inquisitorial documents in a form sent by Peter IV.¹⁰³ On this basis it would be reasonable to assume that at least some of Eymerich's operational documentation, like Gui's, reflected his practice.

But it is more difficult to reach a conclusion on Eymerich's advice (e.g.) on the use of torture or on interrogation. For example did Eymerich ever use his 'ten inquisitor's tricks' against heretics in actual interrogations?¹⁰⁴ Of course they must be read as a distillation of practice and not as *verbatim* accounts of any particular interrogation. But were they simply drawn from another source, a mere academic exercise? There is evidence based on the text that they do represent a well-founded approach to interrogation. This comes from Karen Sullivan's *The Interrogation of Joan of Arc*, where she compares Eymerich's prescribed interrogation techniques with modern techniques and finds a good deal of common ground.¹⁰⁵ That might suggest that what Eymerich proposes reflects, like much of Gui's material, real experience. But there is no conclusive evidence either way.

¹⁰² *Directorium*, p. 289-91, fols CXXIII^v - CXXV^v.

¹⁰³ *Ibid.*, p. 267, fols CXIII^r - CXIII^v and *Zur Vorgeschichte*, pp. 104-05.

¹⁰⁴ *Ibid.*, pp. 291-3, BM, fols CXXV^v - CXXVI^v: '*Cautelæ inquisitoris decem*'.

¹⁰⁵ Karen Sullivan, *The Interrogation of Joan of Arc* (Minneapolis: University of Minnesota Press, 1999), pp. 89-98.

Similarly, there is no evidence whether the complex scheme for judging when to use torture was actually used by Eymerich. Indeed the polished nature of Eymerich's schemes may prompt some scepticism about how far it was based on practice.¹⁰⁶

In the absence of direct evidence of the detail of Eymerich's day to day inquisitorial activities, the best proxy for establishing how much Eymerich reflected existing practice and how far he was trying to change practice is to examine how far his prescriptions in the *Directorium* represented wider practice in Aragon and elsewhere, focussing on those parts of the *Directorium* where there is clear and significant change from the *Practica* and practice earlier in the 14th century. Unfortunately sources do not allow the sort of detailed analysis of inquisition trials that one might make today; but there are several areas - the inquisition's jurisdiction and role, questioning procedures (or *interrogatoria*), the position of Jews, and magic - where significant differences between Gui and Eymerich can be detected and plotted against wider developments.

Eymerich, like Gui, deploys a strong authorial voice. For example, Eymerich believes that magic or sorcery can be used to withstand torture:

There are other others who are possessed and who during torture use magic, and who would die before they would confess anything; they make themselves as if insensible.¹⁰⁷

This belief stands out from the rest of the text, which can be drily academic and thereby gains increased force. It may be that these personal statements reflect not just Eymerich's experience but his personal belief about the immanence of demonic power, which would be consistent with his pursuit of magicians as inquisitor. This voice has been noted by Jaume de Puig i Oliver, who describes such an intervention as an *obiter dictum*.¹⁰⁸

¹⁰⁶ *Directorium*, pp, 313-15, fols CXXXV^r - CXXXVI^r.

¹⁰⁷ *Ibid*, p. 314, fol. CXXXV^v: 'Aliqui sunt etiam maleficiati, et in quæstionibus maleficiis utuntur, qui ante morerentur, quam aliquid faterentur: efficiuntur enim quasi insensibiles.'

¹⁰⁸ Jaume de Puig i Oliver, 'Nicholas Eymrich – Inquisidor discutido', in *Praedicatores Inquisitores – I: The Dominicans and the Medieval Inquisition. Acts of the 1 st International Seminar on the Dominicans and the Inquisition, Dissertationes Historicae 29*, (Rome: Dominican Historical Institute, 2004), pp. 545-93, (p. 546).

Assessment of *Directorium*

The *Directorium* presents a polished surface. It is well argued and is laid out in a way that a modern reader may find impressive. It is seemingly an objective work of scholarship but also a practical manual. But it contains a polemic purpose in promoting Eymerich's own ideas on (e.g.) non-Christian magicians or blasphemers, which take up a disproportionate amount of the text. In a way there are two books nestling within each other like Russian dolls: one is a factual text-book on the theory and practice of inquisition; the other a polemical work promoting Eymerich's ideas, which can also be found in a number of other works. His great novelty lay in his systematising of the existing procedures of the inquisition, and pushing out its boundaries to new areas. But the polemical nature of the work, and the lack of detailed evidence of Eymerich's inquisitorial activity must leave doubts about how much of the work represented real practice. Eymerich's work feels more normative than Gui's.

Conclusion

Gui's contemporaries, who were his intended audience, must have seen considerable merit in the whole of the work, because in its form it followed good scholastic principles, to which they were accustomed, and because it contained highly useful material. It was a sophisticated work; and although it used pre-existing materials to a considerable extent the author organised these carefully, in line with his own experience, to educate his audience as well as providing them with materials for future reference. Those materials largely represent an accurate reflection of contemporary inquisitorial activity. As part of that the *Practica* provides extensive new materials for dealing with new heresies, which, as is shown in Chapter VI are not yet as fully developed as the materials for Catharism and Waldensianism.

Gui's bias, if it is fair to call it that, is towards a rational, conservative and careful stewardship of the inquisitorial function. His authorial voice strengthens the impact of his work and enables him to put specific and sometimes delicate messages over to his audience. Gui's openness and honesty, and the quality of his work on the *Practica*, make it a means for understanding not only the inquisition but its social and political context.

Eymerich aimed to produce a theological justification for the existence of the inquisition and a systematic and well-ordered text-book (if the *Directorium's* continued use proves anything it is that he succeeded in this). He also had a clear polemical purpose in writing; he wanted to push out the boundaries of the inquisition by including new heresies and by giving inquisitors more latitude in defining heresy as well as making its procedures accessible to all future inquisitors. It is not possible to say with as much confidence as with Gui's *Practica* that the *Directorium* represented Eymerich's inquisitorial practice. We simply have insufficient evidence; an analysis of the text alone can only provide suggestive evidence. That said, the *Directorium* does seem in some sections to reflect a normative rather than objective view of inquisitorial practice. But there can also be no doubt that the *Directorium* reflects the impact of social and historical conditions in Aragon on Eymerich, if only in the sense that Eymerich saw the work as part of his continuing struggle with the secular power.

The ideas developed in this chapter will be used and developed in the following chapters to create an understanding of the similarities and differences between the *Practica* and the *Directorium*.

Chapter III: Inquisitors' Companions and Relationships with the Secular Arm and with the Rest of the Church

Introduction

The inquisition depended on the help of the 'secular arm' and the rest of the Church (that is the religious authorities apart from the inquisition) to carry out its functions. Indeed the inquisition can only be fully understood as part of the wider machinery of government, within which it enjoyed considerable, but never complete, autonomy. Gui's *Practica* and Eymerich's *Directorium* can be used, together with other sources, to understand the position of the inquisitor in local power structures and how the inquisition worked through and with the 'secular arm' and other religious bodies. Inquisitors' companions (*socii*) also shed some interesting light on this area and they are discussed first, then the secular arm and finally the rest of the Church.

Inquisitors' Companions

Inquisitors employed staff and technical experts, who supported them in their day-to day activities. In so far as the staff faithfully carried out the inquisitors' instructions they are perhaps not important to understanding the inquisitors' relationships with others. But there are two particular roles which are of interest to this chapter. First the role of the inquisitor's companion, or *socius*, as it is described in the *Directorium*, illustrates Eymerich's inquisitorial ambitions; and second, notaries, particularly as discussed in the *Practica*, demonstrate the problematic pattern of relationships through which inquisitors had to operate. Notaries are examined more fully below, in conjunction with *iurisperiti* who raised similar problems for inquisitors.

An inquisitor had a *socius* or companion who would help in all matters, including spiritual matters and the inquisitor's inquisitorial duties, and who was very much a part of the inquisitor's *familia*. There is no mention of *socii* in the *Practica* but in the *Directorium* Eymerich refers to the inquisitor and his *socius* as one unit.¹ How important the *socius* was to Eymerich is apparent from his actions. Gregory XI, in 1373, during Eymerich's time as inquisitor in Aragon, gave inquisitors the right to bring their *socii* to Rome without the need to

¹ *Directorium*, p. 267, fol. CXIIIr.

seek their order's superiors' permission, reversing a decision of 1344.² At much the same time (1372) Eymerich was freed from reporting to his superiors within the Dominican Order and allowed to report directly to the pope.³ Eymerich records the decision about *socii* in the *Directorium* and makes it clear that the change was at his initiative.⁴ The same section of the *Directorium* also sets out the principle that a *socius* should be provided promptly to an inquisitor and overall makes it clear that for Eymerich a *socius* was essential for carrying out the office of inquisitor. It follows that delays in providing a *socius* and restrictions on his ability to accompany the inquisitor had been, or could have been, used to limit an inquisitor's room for action and in particular his ability to travel to, and lobby at, Avignon. It is clear that Eymerich attached considerable importance to controlling his *socius* and being able to travel to the pope freely. This was consistent with his wider ambitions and can even be seen as a small part of the institutionalisation of the inquisition discussed in Chapter VII.

The Secular Arm - Over-Arching Considerations

It is surprising that Gui and Eymerich do not devote even greater attention in their two works to the subject of relations with the secular arm. This perhaps stems from a belief that cooperation from the secular arm was their right (the considerable powers that inquisitors could exercise over the secular arm, at least in theory, are discussed below), perhaps from a belief that managing the secular arm was not the essential business of the inquisition, or perhaps from a view that it was a matter too delicate for practitioner manuals. The secular arm in France and Aragon was an integral and necessary part of the inquisitorial process. It could perhaps anachronistically be described as a 'partner' of the inquisitors, a partnership which stemmed from the fact that, as discussed below, monarchies in practice shared the aim of eliminating heresy. Without the secular arm no medieval inquisition would have functioned effectively because it relied upon the secular arm to apprehend fugitives and to execute those 'released to the secular arm'. It could be an almost symbiotic relationship; the secular arm in the Languedoc, but not in Aragon in Eymerich's time, facilitated and financed the inquisition's work and in return pocketed the financial penalties in the form of confiscations flowing from the inquisition's work.

² Vidal, *Bullaire*, p. 395.

³ *Zur Vorgeschichte*, pp. 107-08.

⁴ *Directorium*, p. 357, BM, CLIII^r.

The relationship between inquisitor and secular arm, in effect the monarch and his officials, could break down, as it did in Aragon when Eymerich was inquisitor and in Carcassonne and Albi before Gui's time as inquisitor. This was a severe risk to the inquisitors' operations, but not necessarily the norm. Richard Kieckhefer's work on the inquisition in Germany concludes that the norm there was co-operation between the secular authorities and the inquisitors and that when that cooperation broke down it was usually for good reason (typically over-zealous or unjust inquisitorial behaviour), at least as seen from the point of view of the secular authorities.⁵ There are no other events in the Languedoc and Aragon the 14th century comparable with the events in Carcassonne and Eymerich's expulsion. Vidal's *Bullaire* records several exchanges between Pope and secular rulers. For example, John XXII wrote to James II, king of Majorca in 1330 urging him to give inquisitors greater support.⁶ Clement VI urged Peter IV of Aragon in 1344 to deal with heretics crossing from the Languedoc.⁷ Gregory XI was particularly zealous in Eymerich's time in seeking cooperation from secular rulers who seemed lax; he wrote to Charles V of France asking him to get the Governor and other Lords to stop hindering the inquisition.⁸ The papal registers show a similar picture. Vincke's *Zur Vorgeschichte* does show continuing tensions between inquisitor and king over jurisdiction and money.⁹ There is, however, nothing else in Aragon and Languedoc in the period between the *Practica* and Eymerich's expulsion in 1376 which could be described as a breakdown in relations. It is perhaps worth saying that the Black Death and its consequences would have perhaps diverted attention away from inquisitorial matters, as would wars with the English in the case of France. The impression from these sources is that, although there was continuing inquisitorial business, that business was routine. Kieckhefer's pattern for Germany seems to be good for Aragon and the Languedoc in the 14th century apart from the two events already mentioned.

But if cooperation was the norm, the level of cooperativeness could vary. Eymerich's time as inquisitor even before his expulsion was marked by continuing tension with Peter IV, and Eymerich took decisions, notably the trial of Astruc de Pieira and the banning of Llull's works in the face of royal opposition. Nevertheless there seems to have always been at least some

⁵ Richard Kieckhefer, *Repression of Heresy in Medieval Germany* (Liverpool: Liverpool University Press, 1979), pp.110-11.

⁶ Vidal, *Bullaire*, pp. 151-52.

⁷ *Ibid.*, pp. 302-03.

⁸ *Ibid.*, pp. 408-09.

⁹ *Zur Vorgeschichte*, pp. 68-69, p. 83 and others.

level of cooperation and certainly Peter's aims were always to change the inquisitor, not to end the inquisition. In the Languedoc in the period considered here there seems to have been close cooperation; but Alan Friedlander has pointed to the presence of some locally-appointed royal officials in the Languedoc with strong Cathar connections who were in office during Gui's time, albeit that most of the evidence that he gives relates to Carcassonne rather than Toulouse.¹⁰ His conclusion is that '[...] it is not difficult to understand why the officials gave questionable support to the inquisitors during the end of the 13th century and the beginning of the 14th century.'¹¹ There was therefore continuing reason for Gui to be wary of local officials, and not just those with known Cathar connections, with whom he was obliged to cooperate. As will be shown, this wariness left traces in the *Practica*. In Aragon and the Languedoc the secular arm was always a constraint on the inquisitors' behaviour.

How to manage this relationship is an issue covered at various points in both the *Practica* and the *Directorium*. Both set out the normative relationship between the inquisition and the secular arm and other religious authorities or, in other words, the relationship which, in the inquisitors' view, the rules prescribed. They do not directly address the practical realities of the relationships. Gui, however, does address these practical realities tangentially; as noted in Chapter II this was Gui's way of passing on his messages about the more delicate aspects of inquisitorial work. Differences between the two authors' views on relationships with the secular arm and other religious authorities reflect how the concept of inquisition was developing in the 14th century; and the gaps between the authors' views and reality, and a careful analysis of the manuals, show the tensions within these relationships and the techniques adopted to make them work in practice.

The 'secular arm' included the seneschal in Toulouse (the King's principal representative) and *viguers* in various other locations, who co-operated on a day-to-day basis with the inquisition, in apprehending fugitive suspects, extracting immediate information by torture and executing those released to the secular arm. These local authorities also had responsibility for the maintenance of order, which in practice meant balancing local powers and interests as well as using physical force. They would inevitably have a strong interest in the activities of the

¹⁰ Alan Friedlander, 'Les Agents du Roi face à l'Hérésie', in *Effacement du Catharisme?* (Toulouse: Privat, 1985).

¹¹ *Ibid.*, p. 218: '[...] il n'est pas difficile de comprendre pourquoi les agents apportèrent un soutien contestable aux inquisiteurs pendant la fin du XIII^e siècle et le début du XIV^e siècle.'

inquisition and its impact on those local personalities and interests, even without the Cathar connections which Friedlander has pointed to. There were therefore grounds on which they might at times fail to co-operate fully with the inquisition and impede its activities or act in ways that might blunt its effectiveness. Gui describes at some length in the fourth part of the *Practica* the sort of actions by the secular power (and others), deliberate or accidental, which might impede the actions of the inquisition. These include being of insufficient number to carry out their functions, or being negligent or inactive or not carrying out their duty ('*officium*').¹² There is a similar section in the *Directorium*, where Eymerich talks of those directly and indirectly impeding the inquisition.¹³ Eymerich was also in conflict at times with local authorities, notably Valencia in 1388, 12 years after the *Directorium* was finished. This was after Eymerich's return in 1387 to his inquisitor's post, and consisted of a general complaint against Eymerich's behaviour towards Valencia in connection with his continuing inquiries into the activities of the Llullists.¹⁴

It must be asked why monarchs, the heads of the 'secular arm', chose to cooperate with an inquisition, as they generally did in the Languedoc and in Aragon. The Church had no effective power *in practice* to compel monarchs to provide support, even if Eymerich aspired to it. He refers to *Ad abolendam* and *Ut inquisitionis* (which appeared in the *Liber Sextus*) as giving a power to compel a monarch.¹⁵ But *Ad abolendam*, although ostensibly compelling action against heretics, only requires action from 'counts, barons, governors and consuls of cities and other places', not from monarchs; as for *Ut inquisitionis*, although it refers to 'all secular powers and temporal lords', the pope only 'requests and advises' them to act against heretics.¹⁶ *Ad extirpanda* does say that any ruler who fails to swear an oath to support the inquisition and implement will 'lose the character of head of state or governor' and 'will undergo the penalty of seeing his country lose its borders'.¹⁷ But this was directed only at Italy and any action would have to be taken by third parties. In Aragon and France at least there was no unequivocal power to compel monarchs; and even if there had been, the reality was that popes would be

¹² *Practica*, pp. 213-14.

¹³ *Directorium*, pp. 257-58, BM, CX^v-CXI^r.

¹⁴ Heimann, pp. 122-28.

¹⁵ *CIC*, 2, cols 779-82 and cols 1076-77. *Directorium*, p. 267, BM, fol. CXIII^r.

¹⁶ *Ibid.*, 2, col. 781: 'comites, barones, rectores, et consules civitatum, et aliorum locorum'; and cols 1076 - 77: 'universos seculi potestates et dominos temporales' and 'requirimus et monemus'.

¹⁷ *Practica*, pp. 310-19; *Texte zur Inquisition* ed. by Kurt-Victor Selge (Gütersloh: Gütersloher Verlagshaus G. Mohn, 1967), p. 77, '*Texte zur Inquisition*'.

reluctant to confront sovereigns in this way and could not easily get their way with an unwilling sovereign, if at all. Difficult issues inevitably became a negotiation.

In practice popes therefore had to depend in part on wider religious and secular pressures and interests to secure monarchs' cooperation. These were not ineffective. French and Aragonese monarchs, including Philip IV 'the Fair', presented themselves as pious and therefore necessarily shared the Church's interest in eliminating heresy *qua* heresy. The nature of the piety of Philip IV (monarch during the first part of Gui's time as inquisitor) has been of some academic interest. Jean Favier saw him as having a profound faith but one which became highly legalistic.¹⁸ Elizabeth Brown put it slightly differently:

Philip the Fair's attitude to moral imperatives and the authorities that issued them was inconsistent. He was timorously respectful of principles whose violation he believed might jeopardise his soul's welfare. He also believed that principles could be bent and adapted to his needs, and seems to have considered few so sacrosanct as to be unmodifiable'.¹⁹

Even in the absence of any real personal piety or personal revulsion towards heresy, kings would have felt pressure to give general support to the inquisition as part of the function of a monarch within Christendom; not to fight heresy would have left a monarch open at the very least to serious accusations of support for heresy and action by the Church, which could provide pretexts for opponents to intervene. This was manifest in the example of Raymond VI, Count of Toulouse, who, despite his best efforts, was the victim of the Albigensian crusade endorsed by Innocent III, and his example was still being used by Gregory XI in 1373 to encourage the Lords of Savoy and the Dauphiné to pursue heretics.²⁰ This was strengthened by the fact that impeding the inquisition was to commit the offence of being a 'fautor: supporter' of heresy.²¹ As a result there was a continual expression of support for the inquisition whatever a monarch's intentions. Peter IV's letter to Eymerich of 9 April 1360 contains a classically drafted statement of why medieval monarchs supported the inquisition in principle, together with a statement

¹⁸ Jean Favier, *Philippe le Bel* (Paris: Fayard, 1978), p.8.

¹⁹ Elizabeth Brown, 'Philip the Fair', *Speculum*, 87, 1 (January 2012), 1-36 (p.9).

²⁰ Vidal, *Bullaire*, p. 412.

²¹ This dates back in essence to *Ad abolendam* of 1184 but was more clearly expressed in *Excommunicamus* in 1231.

why its support was lacking in a particular case. It contains fine rhetoric about the value of the inquisition and the awfulness of heresy (which Peter wishes ‘to be extirpated completely from his borders; a nostris cupiamus finibus funditus extirpari’), although Peter then brings in a severe reservation by repeating a far-reaching allegation of misconduct against Eymerich: ‘[...] you have with animosity and inappropriately proceeded against an appeal made to the Roman pontiff and against all provision and form of every law’.²² A similar example of rhetorical support for the inquisition, this time from South-West France, is contained in a letter of Alphonse de Poitiers in 1268 in which he hopes that the Toulousan inquisitors will ensure that ‘our land will be purged of heretical filth and that the name of divine majesty will be worshipped in the same lands forever’.²³ This is then followed by a request to have faith in some particular information; the details are not revealed and the letter refers only intriguingly to ‘those things which Egidius Camelini, our clerk, has told you on our behalf’.²⁴ All these statements might be dismissed simply as pious expressions of support, but, in practice, even when monarchs wished to curtail the operations of the inquisition, they did not attack the principle of an inquisition but the conduct of its office-holders.

A monarch would also have an interest in an inquisition beyond simple piety and a desire to avoid difficulties, an interest which might or might not have been shared by the Church. All inquisitions served political or social as well as religious purposes. That is, they were aimed at leveraging social or political change as well as achieving religious goals; religion did not live in a separate sphere but inevitably had a socio-political dimension. Alexander Patschovsky has expressed this as three principles:

- that medieval society was a society dominated by endemic conflicts;
- that heresy was a constitutive component of these conflicts and consequently fulfilled a social function;

²² *Zur Vorgeschichte*, pp 94-95: ‘[...] vos multum animose et indebite contra appellacionem ad Romanum pontificem interiectam et contra omnem utriusque iuris dispositionem et formam proceditis’.

²³ *Correspondance administrative d’Alphonse de Poitiers*, ed. by Auguste Molinier (Paris: 1894), p. 601, letter 932: ‘[...] terra nostra purgetur heretica feditate et nomen divine majestatis in eisdem terris perpetuo excolatur’.

²⁴ *Ibid.*, p. 601 : ‘hiis que Egidius Camelini, clericus noster, ex parte nostra vobis dixerit’.

- that the phenomenon of medieval heresy can only be understood if it is regarded as a framework for the articulation of overall social processes.²⁵

Before 1209, when Albigensian Crusade started the process of integrating the Languedoc into the Kingdom of France, Patschovsky's analysis arguably did not apply. There was no inquisition, and Catharism in the Languedoc had come close, or at least had been seen by the Catholic Church as coming close, to being an alternative church supported by a network of loyalties and interests. But that was in the context of a highly autonomous area with its own tradition of toleration, in which heterodox belief did not play a divisive role. The Crusade changed that and put heresy at the centre of conflict within the Languedoc. From the end of the Crusade, and particularly after 1271, the religious policies of the French Crown, and the perceived need to secure the loyalty, or at least the acquiescence, of the Languedoc nobility led to the gradual elimination of heterodox belief, in considerable part through the inquisition. The control of heresy became both an aim in itself and a means of securing social control. The inquisition was used to both these ends. This can be seen in Toulouse both in the 1270s inquisition and specifically in the 1279 Royal Diploma.²⁶ The inquisition in the 1270s dealt with some active heretics but also showed particular interest in the past heretical activities of the nobility, and sought assurances of no further activities, almost certainly with the aim of exercising some level of political/social control. The Royal Diploma, effectively wiping the slate for those families active in heresy in the past, can be seen as part of the same tactic of using past heretical activities together with the liability to lose property as means of political control; but it would also have served the purpose of discouraging heretical activity.

From the secular arm's point of view the inquisition was part of a wider process of integrating the Languedoc into France, and actions by the inquisition which seriously compromised that aim would not be acceptable. Therefore Philip IV was anxious to address and quell grievances about the behaviour of the inquisition which might lead to serious unrest. In 1291 he ordered officials not to cooperate with the inquisition and in the ensuing period he vacillated over

²⁵ Alexander Patschovsky, 'Heresy and Society: On the Political Function of Heresy in the Medieval World' in *Texts and the Repression of Medieval Heresy* (Woodbridge: Boydell & Brewer Ltd., 2003), pp. 23-45 (p. 23).

²⁶ John Hine Mundy, *The Repression of Catharism at Toulouse – The Royal Diploma of 1279* (Toronto: Pontifical Institute of Medieval Studies, 1985).

support for the inquisition.²⁷ Matters came to a head in 1299 in Albi with widespread arrests of prominent citizens by the inquisition and Philip's decision to send down a team of *enquêteurs* to investigate. As a result in 1301 Philip introduced a policy under which important decisions had to be made by bishop and inquisitor jointly. Trouble flared again in Carcassonne in 1303 under the leadership of Bernard Délicieux; afterwards, in 1304, Philip reaffirmed restrictions in an edict and in 1306 two cardinals were commissioned to report on the situation and made similar recommendations.²⁸ At no point, however, did he go as far as to seek the inquisition's abolition.²⁹ Philip's initiatives eventually led to *Multorum querela* and *Nolentes*, ostensibly a substantial change in the inquisition's way of operating.

Gui personally experienced the events in Carcassonne in 1303-04 as prior of the Carcassonne Dominican priory and described them as the '*rabies carcassoniensis*' or 'Carcassonne madness'.³⁰ Gui was also well aware that the subsequent restrictions put on the inquisition by Philip IV in the 1300s, following a formal papal commission by Cardinals, had formed the impetus for *Multorum querela* and *Nolentes*, which were agreed at the Council of Vienne in 1312 and were aimed at curbing inquisitorial excess. In a private memorandum to John XXII about the (delayed) introduction of *Multorum querela* and *Nolentes* in 1317 Gui indicates that he understood that link: '[...] the things which are contained in the present documents (i.e. *Multorum querela* and *Nolentes*) seem for the greater part to have been accepted and exemplified by the aforesaid arrangements (i.e. the conclusions of the papal commission set up

²⁷ Claude de Vic and Joseph Vaissette, *Histoire Générale de Languedoc*, 10 vols (Toulouse: Privat, 1872 – 1904), X, *Preuves*, cols 273-74.

²⁸ *Ibid.*, cols 428-31.

²⁹ *Ibid.*, col. 439. This seems to demonstrate the continuing support for the principle of inquisition even when it is being restrained by the monarch: '[...] we with all our desires seeking that the office (of inquisitor) should proceed properly and justly to the praise of the divine name and the increase of the faith and should choose to carry out its work appropriately and that all occasion of dissension and scandal should be removed [...]; nos totis desideriis affectantes, quod officium ipsum ad laudem divini nominis et ejusdem augmentum fidei sic rite, sic juste procedat et executionis debite sortiatur effectum, quod omnis dissentionis et scandali tollatur occasio'.

³⁰ Bernard Gui, *De fundatione et prioribus conventuum provincorum tholosanæ et provincie ordinis prædicatorum*, ed. by P. A. Amargier OP (Rome: *Monumenta ordinis fratrum prædicatorum historica* vol. XXIV, 1961), p. 103. For the details of the early 1300s see James Given, *State and society in medieval Europe: Gwynedd and Languedoc under outside rule* (London: Cornell University Press, 1990); and Alan Friedlander, *The Hammer of the Inquisitors: Brother Bernard Delicieux and the Struggle against the Inquisition in 14th Century France Culture, Beliefs and Traditions* (Leiden: Brill, 2000).

by Clement V)³¹. He also complained bitterly about the new measures and saw them as a result of the activities of heretics who had outrageously swayed the opinion of the secular arm. These experiences, the *rabies carcassoniensis* and its procedural aftermath, were, to judge from this private memorandum, a strong influence on Gui's outlook as inquisitor.

The situation in Aragon had similarities to, and differences from, that of France. The kings of Aragon had much the same overall aims as the kings of France in terms of the elimination of heresy within the Catholic community. But heresy of the kind which concerned Gui posed no great threat to Aragon at the time Eymerich was writing.³² The *Directorium* contains details of a few (important) cases undertaken by Eymerich but the only account we have of the full scope of inquisition work in Eymerich's time and just after his banning is contained in the register of inquisition cases for the bishoprics of Gerona, Vich, Urgel and Lérida 1370-80, which unfortunately contains only a brief record of cases. Vincke comments that it shows 'something of the reasons why Eymerich was so hated by the king.'³³ The register shows that inquisition cases consisted predominantly of a mixture of sorcery cases, those who had formed aberrant ideas about the Christian faith and Jews who may or may not have been baptised. There is relatively little detail but of some 129 cases with any detail some 39 concern magic of various sorts and 39 some kind of theological error. 13 concerned Jews. The Cathars with which Gui principally dealt are wholly absent. Interestingly 17 cases concerned members of holy orders, only one identified as a Dominican, the rest being unidentified, Franciscans or Carmelites. This picture is backed up by Eymerich himself who laments that heretics have been extirpated to such an extent 'that there are rarely pertinacious heretics, more rarely relapsed heretics and very rarely indeed rich heretics; rather there are poor heretics such as Fraticelli, Beguins or Waldensians'.³⁴

Aragon differed substantially from the Languedoc in that it had two large religious minorities, Jews and Muslims, who represented respectively perhaps 6.5% and 20% of the one million population. Locally in the Kingdom of Valencia Muslims were a majority, albeit they were

³¹ BNF, MS Doat XXX, fols 92^r-100^r. The passage quoted comes from fol. 96^v: '[...] *a prædictis ordinationibus videntur accepta et exemplata pro maiori parte illa quæ continentur in præsentī constitutione*'.

³² *Zur Vorgeschichte*, pp.162-82.

³³ *Ibid.*, p. 165.

³⁴ *Directorium*, p. 389, BM, fol. CLXVI^r: '[...] *ut raro sint hæretici pertinaces, et rarius relapsi, et rarissime divites, sed pauperes: utpote Fraticelli, Beguini, seu Valdenses*'.

largely serfs, but they were only about 3% of the population of Catalonia.³⁵ The history of inter-communal relations and the eventual ending of *convivencia*, which is represented by the mass forced conversions of Jews in 1391, is complex. For this thesis it should be noted that at the time when Eymerich was active as an inquisitor the balance between the Jewish, Muslim and Christian communities, in which largely ritualised violence, particularly against Jews, as described by David Nirenberg, could fulfil the function of relieving tensions and facilitate living together, was fading. Nirenberg chose not to take his analysis beyond 1348, when Eymerich first became a Dominican friar and when some massacres of Jews took place in Aragon.³⁶

But there were not only intercommunal tensions; there were also tensions within the Christian community, for example within the Dominican order and between Franciscans and Dominicans.³⁷ The maintenance of stable communal relationships was a concern for the Aragonese king. Eymerich's expulsion from Aragon in 1376 seems to have come about as a direct result of Dominican/Franciscan tensions in Tarragona, with allegations by Dominicans in 1371 that Franciscans were preaching heretically. This developed into a more thoroughgoing stand-off between the religious and secular authorities.³⁸ Nevertheless other activities may well have contributed to Eymerich's expulsion. In contrast to Gui, who worked closely with the French monarchy, Eymerich's relationship with the kings of Aragon was usually poor. The underlying reason was that the aims and interests of the Aragonese monarchy were not aligned with those of the inquisition led by Eymerich. Eymerich seems to have tried to apply heresy laws both to intra-communal tensions (e.g. in the Llull controversy and in his attempts to make more magic heretical) and to inter-communal tensions (e.g. by extending heresy laws to non-Christians practising magic) but these were not supported by two Aragonese kings (Peter IV and his son John), who both expelled Eymerich. Indeed Michael Ryan's account of astrology in Aragon under Peter IV and his son John suggests that Eymerich's writings on magicians were to an extent a direct attack on the monarchy.³⁹ If Patschovsky's analysis is used, although

³⁵ Figures from T.N.Bisson, *The medieval crown of Aragon: a short history* (Oxford: Clarendon, 1986), pp. 164-65.

³⁶ David Nirenberg, *Communities of Violence – Persecution of Minorities in the Middle Ages* (Princeton: Princeton University Press, 1996), p. 231.

³⁷ Heimann, p. 41: Eymerich's own action against a Dominican prioress in Valencia falls into that category.

³⁸ *Ibid.*, pp. 64-74

³⁹ Michael Ryan, *A Kingdom of Stargazers* (London: Cornell University Press, 2011), pp.124– 53.

there were certainly endemic conflicts in Aragon, there was no consensus between monarch and inquisition on what constituted heresy and the pursuit of heresy could not provide a framework for the articulation of overall social processes. Cooperation was as a result perfunctory and cases sometimes contested. In contrast the inquisition in Gui's time did indeed provide a framework for controlling Languedoc particularism and for that reason was supported by the French monarchy as long as the inquisition acted carefully.

Things were rather different in Italy, which, unlike France and Aragon, had a patchwork of effectively autonomous states. Problems of cooperation arose, as they did in France and Aragon, but in the absence of a single centralised power a different approach was developed by the Church. In 1252, following the murder of Peter of Verona, the Bull *Ad extirpanda* prescribed the means which Italian states should adopt to root out heresy; these included the appointment of a commission to root out heresy; the adoption of laws against heresy; the use of torture and confiscation; and a tripartite financing arrangement whereby proceeds were divided between the local commune, the officials of the inquisition and the inquisitor and the bishop.⁴⁰ While these arrangements were intended for Italy torture was subsequently adopted by all inquisitors. It is worth noting that Ugolini does not mention these provisions at all; he is concerned with the law on inquisition rather the framework in which the inquisitorial process takes place. *De officio* does record the duties of Italian states vis-à-vis the inquisition, portraying the roles of the states within the inquisitorial process. The *Podestà* is seen as an official of the inquisition and his role in torture is noted.⁴¹ But, unlike Gui and Eymerich, *De officio* gives little indication how the relationship should be managed.

For the inquisition to carry out its role successfully, cooperation between inquisition and secular arm had to be maintained across a number of areas, which are now considered in more detail.

Financial Relations

The existence of effective financial arrangements was a *sine qua non* for the inquisition's work and the nature of those relations determined fundamentally the way in which it carried out its

⁴⁰ *Practica* pp. 310-19; *Texte zur Inquisition*, p. 77.

⁴¹ *De officio*, pp. 18-19 and p. 23.

work. The financial arrangements in the Languedoc in Gui's time and Aragon in Eymerich's were different, and those differences may well have induced different behaviours.

Henry Charles Lea has written what is still a useful account of the finances of the Languedoc inquisition.⁴² As he points out, Doat XXXIV has accounts for the years 1322/3 for Carcassonne and Béziers, which show the outgoings for the cost of 'maintaining prisoners, the hunting-up of witnesses, the tracking of fugitives, and the charges for an *auto de fé*, including the banquets for the assembly of experts, and the saffron-coloured cloth for the crosses of penitents'.⁴³ The Carcassonne inquisitors were paid 150 *livres tournois* a year. Those expenses were more than matched by receipts from confiscations, leaving a profit of 1050 *livres tournois* for the Crown. The accounts for Toulouse in 1310/12 (*Les comptes des Receveurs de Toulouse*) taken from Doat XXXIII show a similar pattern of expenditure on inquisition prisoners (around 40 *livres tournois* a month) and a large volume of receipts from confiscations.⁴⁴ Unfortunately these accounts are not complete and a full analysis is not possible. In particular there are no payments to the inquisitors shown. But it is known that the Toulouse inquisitors were being paid from the same funds in 1337 and the same arrangements probably applied in Gui's time.⁴⁵ But how far the costs of the inquisition were in fact offset by receipts from the over 400 heretics whom Gui condemned to a major punishment involving confiscation in his period of office of around 18 years is not clear.⁴⁶ Lea picks a single year (1322) when receipts outweighed costs.⁴⁷ But there is reason to suppose that this year might not have been typical. It is known that in Toulouse in 1319 and 1322 a large number of inquisition prisoners were released, more than were being condemned.⁴⁸ As a result costs would have decreased while receipts, which would tend to lag as property takes time to be disposed of, may have continued for a while. The same

⁴² Henry Charles Lea, 'Confiscation for heresy in the middle ages', *English Historical Review* 2, 6 (April 1887), 235-59.

⁴³ *Ibid.*, p. 256 drawing on BNF, MS Doat XXXIV, fol. 189.

⁴⁴ *Comptes Royaux*, 1285-1314, ed. by Robert Fawtier and François Maillar, 3 vols (Paris: Imprimerie Nationale, 1954-56), 2, pp. 205 – 17, 'Comptes Royaux'.

⁴⁵ Vic and Vaissette, vol. 10, *Preuves*, cols 791-92.

⁴⁶ *Sententiae*, p. 1646. Of these 400, 350 were condemned while living, of whom 43 were released to the secular arm and 307 condemned to imprisonment. Another 20 were condemned to the secular arm or imprisonment 'if they were still alive'; and 66 were exhumed and burnt.

⁴⁷ Lea, 'Confiscation for heresy in the middle ages', p. 256.

⁴⁸ *Sententiae*, p. 1646. In 1319 and 1322 Gui released some 110 people from imprisonment but only condemned 68, a net reduction of 42. That figure that does not take account of deaths in prison. The numbers in imprisonment were thereby reduced substantially.

pattern may well have been the case in Carcassonne; it would be wrong to draw too many conclusions from one particular year.

There is certainly evidence of financial pressures. The Crown was anxious to keep its revenues up and was concerned that the inquisition might not maximise receipts. This is apparent from two places in the *Practica*. First, in Part 4 Gui makes a defence of the period of grace on the basis that encouraging the denouncing of *perfecti*, who would otherwise be very difficult to detect, is worthwhile because, although seemingly confiscations would be lost by the period of grace, they are in fact outweighed by the subsequent gains as well as by the benefit to the *negotium fidei*.⁴⁹ This comment might well have been inspired by the inquisitors being criticised by the secular arm for forgoing revenue by offering an amnesty from confiscation to those coming forward during a period of grace. Second, in Part 2 there is a letter of testimony (*littera testimonialis*), which in form is simply a memorandum but which seems to indicate that royal officials were over-eager to sell off property confiscated from suspects who had not yet been sentenced.⁵⁰ This caused difficulties because only those released to the secular arm or imprisoned were liable to confiscation; those sentenced to crosses or other lighter punishments were not. The inference is that some of the latter suffered from their property being sold prematurely, as a result of royal pressure to get receipts quickly.

While we cannot know the precise financial cost of the inquisition over a period of years, the fact is that the French state at this time felt able, and wished, to continue financing the inquisition, whether it was a net cost or a benefit. Gui's position was therefore in effect that of modern judges who are paid by the state and have no interest in financial receipts resulting from their actions. How far Gui was insulated from financial considerations in making decisions is not clear but the hints of pressure mentioned above show that he may not have been. It is reasonable to suppose that close working relations with the French Crown would have been encouraged by these financial arrangements.

⁴⁹ *Practica*, p. 185 '[...] consecuntur ut sepius majora commoda et emolumenta confiscationis bonorum plurium personarum quam essent bona que forent confiscanda personarum illarum quibus ex predictis causis vel similibus predicte gratie promittuntur'.

⁵⁰ *Ibid.*, pp. 63-64.

One other point is worth making. The *Comptes Royaux* show over several pages that some people in the Languedoc were prepared to buy property confiscated from condemned heretics.⁵¹ Unfortunately the accounts are not complete but for 1310-12 they show 63 sales of the property of condemned people, of which most are identifiably sales of heretical property. Total receipts were £559 13s 1d *tournois*, which, given the missing entries, may understate the receipts. Some names recur (two buyers bought 16 lots between them) and the names seem to be Occitan. The buyers perhaps bought at a discount, which made the assets attractive. There is suggestive evidence in a letter from Philip IV that heretics' property did not on occasion receive the right price. Philip complains of being 'enormously damaged or deceived in contracts of sale' for the property of Guilhem Garric'.⁵² But even so, once the sales were made, a body of people would thereby acquire an interest in maintaining the *status quo*, not wishing to see any change in policies against heresy which might put their gains in doubt. That may well have helped secure some local support for the French Crown.

Things were different in Aragon in Eymerich's time. Eymerich helpfully includes a short and incisive essay under *Quæstio* 108 in Part III on the financing of inquisitors.⁵³ This describes three possible financial arrangements: 1) by bishops; 2) by temporal lords; and 3) out of receipts from penalties on heretics. Eymerich comments on the first that bishops are the natural party to finance the inquisition because it is their duty to preach the faith and extirpate heresy, but that, although many bishops agree with this in theory, in practice they do nothing.⁵⁴ On the second Eymerich makes the point that temporal lords, who receive the benefits of confiscations, might be expected to carry the burdens of the inquisitors, and indeed where they receive confiscations they are willing to do so. But there is now no money in confiscations because, as already noted above, heresy has been 'extirpated to such an extent that there are rarely pertinacious heretics, more rarely relapsed heretics and very rarely indeed rich heretics; rather

⁵¹ *Comptes Royaux*, 2, pp. 211 – 13 and 215 - 17.

⁵² Claude de Vic and Joseph, Vaissette, *Histoire Générale de Languedoc*, 15 vols (Toulouse: Privat, 1872), X, *Preuves*, cols 526-27: '[...] enormiter lesi seu decepti fuerimus in contractibus venditionum'.

⁵³ *Directorium*, pp. 388-89, BM, fols CLXV^v - CLXVI^r.

⁵⁴ *Ibid*, p. 389, fol. CLXVI^r: 'For the greater part all lord (bishops) speak in agreement with this opinion but none carries it out in fact; Huius sententiæ sunt pro maiori parte omnes domini in voce, sed nullus exequitur in re'.

there are poor heretics such as Fraticelli, Beguins or Waldensians'.⁵⁵ The financing model, which was accepted in Gui's day in the Languedoc, had become much less prevalent in Eymerich's, presumably for the reason that Eymerich states, a lack of proceeds from heretics. The third method of financing from the proceeds of penalties is favoured by some but in Eymerich's view it is not a good model because, 'although it may be just, it however brings prejudice to the office and for that reason it would be better, if it can possibly be done, to provide for the inquisitors in some other way.'⁵⁶

Eymerich wrote from experience. Johannes Vincke's collection of inquisitorial documents contains a number of financial documents and Jaume de Puig i Oliver has supplemented the documentation and provided a commentary on Aragonese financial arrangements.⁵⁷ Although the Aragonese model started on the same basis as that in the Languedoc financial pressures led to monarchs hypothecating receipts from particular penalties (and the cost and risk of collecting them) to the inquisitors.⁵⁸ Puig i Oliver shows an example from 1351 allowing Eymerich's predecessor, Nicholas Rossell, to take money owed to him from fines.⁵⁹ In 1354 Rossell was given general permission to take his salary from receipts.⁶⁰ In 1366 Eymerich was given the same privilege being assigned what was owed to him or would be owed in the future from whatever money may come from condemnations and confiscations he may make from the goods of Christians or Sarracens.⁶¹ Jews are not mentioned, almost certainly deliberately, because they were under the protection of the king and Peter would not have wanted to indicate that Eymerich could involve himself with them. Eymerich's least favoured model was therefore

⁵⁵ Ibid, p. 389, fol. CLXVI: 'pravitate hæretica [...] extirpata in tantum, ut raro sint hæretici pertinaces, et rarius relapsi, et rarissime divites, sed pauperes: utpote Fraticelli, Beguini, seu Valdenses'.

⁵⁶ Ibid, p. 389, fol. CLXVI: 'quod licet sit iustum, inducit tamen officio præiudicium; et ideo esset melius, si fieri posset, inquisitoribus aliter providere'.

⁵⁷ Jaume de Puig i Oliver, 'El pagament dels inquisidors a la Corona d'Aragó durant els segles XIII i XIV' in *Arxiu de textos catalans antics* (2003), pp. 175-222.

⁵⁸ *Zur Vorgeschichte*, pp. 51-52.

⁵⁹ Puig i Oliver, 'El pagament dels inquisidors', pp. 197-98.

⁶⁰ Ibid, p. 200.

⁶¹ Ibid, p. 208 : 'By the present letter we assign to you [...] Nicholas Eymerich [...], from any money coming from condemnations or confiscations, made by you or which you have had carried out, from the goods of any Christians or Saracens, whatever is owed or will be owed from the pension assigned to you by us for the aforesaid function of inquisition.' 'Tenore presentis assignamus vobis, [...] Nicholao Eymerici, [...] super quamcumque pecuniam prouenturam ex condemnationibus seu confiscacionibus per vos factis vel fiendis de bonis quorumcumque christianorum aut sarracenorum quicquid vobis debetur aut debetur de pensione per nos vobis assignata ratione officii inquisitionis predicte.'

the one he enjoyed for a good part of his inquisitorial career. This arrangement had advantages and disadvantages.

The *advantage* was that a cause of continuing friction was removed. Aragonese inquisitors were continually at loggerheads with the Aragonese crown over the cost of the inquisition. For example Peter IV's letter of 1 February 1365 to Eymerich indicates that the inquisition had levied fines in Valencia and this was unacceptable to the king because it represented an increase in the inquisition's jurisdiction and deprived him of the potential revenue from fines. As King Peter put it, the inquisition should punish persons not the pocket.⁶² Most of the correspondence in Vincke's *Zur Vorgeschichte* until Eymerich's time concerns financial issues, showing the Crown's desire to maximise revenue. The *disadvantages* were two-fold. First, as Eymerich himself noted, there was moral hazard for the office of inquisitor in having an interest in maximising receipts. But the second consequence was that the relationship between the inquisitor and the crown was weakened; as Jaume de Puig i Oliver notes, this state of affairs may have contributed to inquisitorial excesses of zeal (he has in mind Llull).⁶³ It seems likely that Eymerich's willingness to oppose the secular arm may have been underpinned by the financial arrangements.

Eymerich's remarks about secular lords being unwilling to pay inquisitors may reflect the failure of Gregory XI's attempts to get secular rulers to finance the inquisition on the Languedoc model more widely. Gregory wrote to Charles V in 1373 asking him to extend the Languedoc system to all parts of France. He also wrote to the archbishops and bishops residing in Paris in 1373 asking them to help get Charles V to pay the inquisitors their pension; if that did not happen the charge would be put on the bishops, a point presumably intended to galvanise the archbishops and bishops.⁶⁴ This approach does not seem to have paid dividends and in 1375 the pope wrote to the bishops of Arles, Aix, Embrun, Vienne and Tarentaise

⁶²*Zur Vorgeschichte*, p. 103: 'But since, if the aforesaid have been delinquent in any way, they should be punished in their persons not financially, and where they must be punished financially, such punishment should be a matter not for you but for us and our officials [...]: Verum cum, si predicti in fide quomodolibet delinquerint, sint in personis et non in pecunia puniendi, et ubi peccunariter puniri debeant non ad vos talis punicio sed ad nos nostrosque officiales debeat pertinere [...]'.

⁶³ Puig i Oliver, *El pagament dels inquisidors* p. 184 : '[...] si el rei cedia una part de la seva influència en les activitats inquisitorials, aquesta minva podia estimular els excessos de zel i el fanatisme de certs titulars de la Inquisició?'.

⁶⁴ Vidal, *Bullaire*, pp.399-400.

requiring them to make an upfront payment of 4000 florins followed by four annual payments of 800 florins for the maintenance of the inquisition and its prisons.⁶⁵ Excommunication was threatened. There was also a letter to the Queen of Naples on the same date as the letter to Charles V asking her to adopt the Languedoc system in Naples and Provence or at least to go back to the former Italian model where the inquisitors received a share of the confiscated goods of condemned heretics.⁶⁶ This is a reference to the system set up in Italy by *Ad extirpanda* whereby a third of confiscated goods went to the Diocesan bishop and the inquisitors to promote their work.⁶⁷ These examples reflect a lessening willingness of rulers to finance the inquisition, perhaps because the Cathar threat had receded or because of the disruption caused by the Black Death. By 1368 things had also changed in the Languedoc and the king had to ask Carcassonne to pay directly for its own inquisitors because the king could no longer afford to do so.⁶⁸ In the latter part of the 14th century inquisitors generally did not enjoy the financial security that Gui enjoyed.

Non-financial Relations: Using oaths

Both Eymerich and Gui discuss non-financial matters in more detail than finance. When they discuss relations with the secular arm, it is frequently in a way which stresses the inquisition's legal rights and the secular arm's duties and the inquisition's ability to compel. Language of this kind is used in *Ad extirpanda* which sets down how (Italian) rulers should carry out their duties towards heretics. Gui in his *Practica* talks about the problem of negligent rulers and suggests that they may be dealt with by ecclesiastical censure.⁶⁹ But while ecclesiastical censure may have been effective one wonders whether in practice a pragmatist like Gui would have used this method as a first resort. He would probably have tried to use persuasion first. The wording of this part of the *Practica* stems from Gui's source (*Quoniam*) and Gui may well have seen this as a simple statement of the legal position, assuming that it would be used sparingly.⁷⁰ Eymerich, on the other hand, makes much of the powers that an inquisitor possesses to secure the cooperation of the secular arm. His recommended initial letter to secular officials, when an inquisitor has no reason to expect lack of cooperation, endeavours to use

⁶⁵ Ibid, pp. 420-22

⁶⁶ Ibid, pp. 400-01.

⁶⁷ *Practica* pp. 310-19; Texte zur Inquisition p. 77.

⁶⁸ Vic & Vaissette, X, *Preuves*, col.503.

⁶⁹ *Practica*, p. 21.

⁷⁰ BNF, MS Doat XXXVI, fol. 14^r.

softer language but, as it were, Eymerich's more legalistic self gets the better of him and he threatens tougher action: 'We ask and invite by this letter you and any of yours [to appear before us] (*although we can order and require*) but having no doubt of the promptitude of your zeal in the cause of the greatest faith (emphasis added).⁷¹ He then goes on to give forms of words over some 10 printed pages showing how to deal with recalcitrant officials, culminating in their being deprived of office.⁷² Given that the inquisition was a law-based organisation, and its members were trained in canon law, this approach is not surprising. But a legalistic approach may not always be a wise approach, in that the secular authorities had in the last resort considerable ability to disrupt the inquisition's work, as Peter IV's expulsion of Eymerich in 1376, and the refusal by Philip IV in 1301 to make arrests on behalf of the inquisition, show.

Although both Gui and Eymerich set out much the same legal framework for dealing with the secular arm, different strategies for coping with difficulties can be detected. Gui has no one continuous section on the secular arm and indications of his thinking have to be drawn from various parts of the *Practica*. Eymerich, on the other hand, devotes the first eight pages of the third part of the *Directorium* to the relationship between an incoming inquisitor and the secular power.⁷³ Eymerich assumes an inquisitor taking up his post for the first time.⁷⁴ This would be happening from time to time when he wrote the *Directorium*; Gregory XI secured the appointment of several new inquisitors in Portugal and the Holy Roman Empire in the 1370s.⁷⁵ He advises that the inquisitor present himself to the king or other temporal lord to explain his mission and seek his advice, help and support; and that the inquisitor explain to the king or temporal lord 'that he is required to give [that advice, help and support] according to canon law if he wants to be considered faithful (as he must) and avoid the penalties of the law, which are contained in *Ad abolendam* and *Ut inquisitionis*.'⁷⁶ The advice is perhaps rather academic and

⁷¹ *Directorium*, p. 268, BM, fol. CXV^r: '[...] vos et quemlibet vestrum rogamus et requirimus per præsentes (*quamvis possimus precipere et mandare*) sed de promptitudine zeli vestri in causa maxime fidei minime dubitantes [...]'.

⁷² *Ibid.*, p. 275, fol. CXVIII^r.

⁷³ *Ibid.*, pp. 267-275, BM, fols CXIII^r - CXVIII^r.

⁷⁴ *Ibid.*, p. 267, fol. CXIII^r: i.e. '[...] newly set up in some kingdoms or lands': '[...] de novo institutus in aliquibus regnis vel terris'.

⁷⁵ Thibault, pp. 190-91.

⁷⁶ *Directorium*, p. 267, fol. CXIII^r: '[...] he is held to that according to canonical sanctions, if he desires to be considered faithful (as he must) and wishes to avoid the many penalties which are contained in *Ad abolendam* (in Liber extra) and in *Ut inquisitionis* (in Liber sextus); [...] ad hoc tenetur secundum canonicas sanctiones, si fidelis haberi cupit, (prout

certainly indicative of the overall legalistic tone of the *Directorium*. More practically Eymerich gives a text of a letter (already mentioned above) to be sought from the temporal lord, requiring his subordinates to give help and protection to the inquisitor and his *familia*; this letter was in fact one which Eymerich himself received from Peter IV during a period of good relations. We know from the *Practica* that Gui had a similar letter, and that apparently it was effective in the Languedoc.⁷⁷

The basic procedure for securing the cooperation of the junior officials of the secular arm is the same in the *Directorium* and the *Practica*, which both require that officials take an oath of support for the inquisition.⁷⁸ That oath had been required to be taken triennially by the Council of Albi in 1254 and commits those taking it, with hand on the gospel, to thorough-going support for the Church and the inquisitors.⁷⁹ This support includes detaining heretics and excluding them from civic life, if necessary when they are identified by the inquisitors.⁸⁰ The oath concluded by an undertaking to be obedient to God, the church and the inquisitors in matters pertaining to heresy. The two oaths in the *Practica* and *Directorium* are similar in terms, the principal difference in the wording being that Eymerich stresses the sacredness of the oath by stating in the oath that the gospel is being touched ‘in body’ (*per nos corporaliter tacta*). But there are significant differences in the recommended timing and use of the oath in the two works which perhaps point to wider differences in practice.

In Gui oath-taking by the officials of the royal court, consuls and others present who have temporal jurisdiction occurs early in the *sermones generales* before any sentences are announced.⁸¹ From 14 June 1309 Gui endeavoured to make the swearing of this oath by the Seneschal personally an invariable component of the *sermones generales*. He went to the Seneschal, the senior secular judge as well as the king’s senior representative in the Languedoc, on that day and got him to swear the oath, an event which is recorded in the *Sententiæ*.⁸² Subsequently the Seneschal attended the *sermones generales* to take the oath on 23 April 1312

debet) et vitare vult multiplices poenas iuris, quæ continentur in c. Ad abolendam. de hære. lib. 5. et in c. Ut inquisitionis. de hære. lib. 6’.

⁷⁷ *Practica*, p. 214.

⁷⁸ *Directorium*, p. 269, BM, fols CXV^r - CXV^v and *Practica*, p. 87.

⁷⁹ Giovanni Mansi, *Sacrorum Conciliorum Nova et Amplissima Collectio*, 53 vols (Venice: 1779), XXIII, col. 837, ‘Mansi’.

⁸⁰ *Practica*, p. 87.

⁸¹ *Ibid.*, p. 84.

⁸² *Sententiæ*, p. 322.

and 30 September 1319; on other occasions he sent a *locum tenens*. That Gui attached some importance to the swearing of the oath is clear from its being recorded in the *Sententiæ* and that he attended the Seneschal specially to get it sworn, and one can infer that this was because the effect of this oath would have been to bind the secular authorities into the sentences about to be given as well as more generally into the inquisitors' work. The public nature of the commitment in church (by many secular and religious officials, including the consuls, not just the Seneschal) before an important ritual would have made it more difficult for the secular authorities to resile from the commitment. It would also have sent a clear signal that the inquisition could only with some difficulty be challenged through the secular power. However, realistically, the secular authorities would only have taken such oaths if Gui's work was on the whole acceptable to them. The oath was an important part of creating a consensus, of binding the work of the inquisition and the secular arm together and a discipline requiring them to co-operate effectively. (Incidentally there is a curious piece of evidence about relations between Gui and the Seneschal in the *Practica*; Gui instructs those carrying out his duties while he is away not to allow the Seneschal to move into the inquisitors' house. Whether this represented some attempt by the Seneschal to gain greater influence over the inquisition or was simply a reflection of a lack of accommodation is not clear).⁸³

This practice of taking steps to ensure the buy-in of the secular authorities is attested elsewhere. Geoffroy d'Ablis, who was inquisitor at Carcassonne from 1303 to 1316 knew Gui as the Prior of the Carcassonne Dominican priory until 1307 and then as inquisitor at Toulouse some 58 miles from Carcassonne. Both Gui's *Sententiæ* and d'Ablis's register show that they cooperated professionally after Gui became inquisitor; Gui attended at least one of d'Ablis's confessions and d'Ablis at least one of Gui's *sermones*.⁸⁴ D'Ablis, perhaps understandably in the aftermath of the events in Carcassonne in 1303 when the inquisitors were driven out of Carcassonne, carefully arranged for his suspects' confessions to be witnessed by those in authority so that he had the sort of consensus that Gui tried to achieve at his *sermones*. For example a list of dignitaries attended the confession of Raimond Issaurat de Larnat at Carcassonne in 1308, when the inquisition remained fragile after the events of 1303. This list included the *vicarius*

⁸³ *Practica*, pp. 66-67.

⁸⁴ *Sententiæ*, p.546. Geoffroy d'Ablis was present at the *sermo specialis* for Vésiade Ponsenc who was punished for perjury. The judgment is given jointly in Gui's and d'Ablis' names (p. 548) and d'Ablis was also present at Ponsenc's confession; and *L'inquisiteur Geoffroy d'Ablis*, p. 210.

of the king and three consuls as well as various religious dignitaries.⁸⁵ The register indicates that the practice was carried out consistently. Such a high-powered attendance is not the case in other registers such as Fournier or in the 1270s Toulouse register, except for high-profile cases. In addition d'Ablis makes it clear that no torture has been used, although as we will see in Chapter VI this should not necessarily be taken at face value.⁸⁶ It is possible that Gui adopted the same practice with his confessions; there is no evidence. It therefore seems that both Languedoc inquisitors felt the need to bind in the secular authorities to their processes. There is no evidence of Eymerich adopting any similar strategy.

The Languedoc inquisitors' practice of close cooperation with the secular power may well have stemmed not only from the events in Carcassonne but also from the various interventions of Philip IV. Philip met d'Ablis in early 1304 (immediately after the *rabies carcassoniensis*) and had 'for many days a serious colloquium and discussion: per dies multos seriosum colloquium et tractatum' with the inquisitors, the Dominican provincial and other local secular and ecclesiastical dignitaries about the situation in Carcassonne, not least the 'great outrage: magnum scandalum' that had arisen and the 'great dangers: grandia pericula' which were present.⁸⁷ There are denials of any improper attempt to intervene; the letter tries, not wholly convincingly, to reassure on the question of interference in Church affairs:

'[...] not that we wish to usurp the ecclesiastical jurisdiction in the said inquisition or impede it in any way [...]: [...] non quod nos in dicto inquisitionis officio jurisdictionem ecclesiasticam usurpare, vel ipsam aliquatenus impedire velimus [...].'⁸⁸

But, in the context of the action taken by Philip to upgrade the jails and get decisions on outstanding cases made, an inquisitor would have felt under considerable pressure to behave as the king wished. It would have been strange if such a meeting did not help shape the behaviour of d'Ablis, who had only been appointed the year before, and was recommended on appointment by Philip, indicating perhaps involvement in the appointment.⁸⁹ This pressure,

⁸⁵ *L'inquisiteur Geoffroy d'Ablis*, p.290.

⁸⁶ *Ibid.*, (e.g.) p.132 and p.160.

⁸⁷ Vic and Vaissette, 10, *Preuves*, col. 429.

⁸⁸ *Ibid.*, col. 429.

⁸⁹ *Ibid.*, cols 409-10.

coupled of course with the other events in the early 1300s, must have weighed heavily with d'Ablis and probably Gui.

Eymerich imposes a similar oath to Gui on the junior secular authorities at a different point in the process, when the inquisitor takes up office. He recommends that the secular authorities be invited to attend on the inquisitor to swear; in fact the invitation makes it clear that it is for form only; the inquisitors have the right to compel.⁹⁰ Eymerich also hedges the oath around with threats of excommunication and gives a detailed game plan for imposing the inquisitor's will on this issue, a feature which is absent from the *Practica*.⁹¹ The first step is warning to officials that they are required to swear on pain of excommunication within a fixed period. If that fails to happen, excommunication follows.⁹² Continued refusal will lead to throwing church candles to the ground or extinguishing them in water and ringing the bells once or several times in a week and eventually to the town or location being put under ecclesiastical interdict. Further continued refusal will lead to those concerned being deprived of office and that fact being communicated at mass.⁹³ If this fails Eymerich suggests using a more political approach by escalating the matter to the pope.⁹⁴

⁹⁰ *Directorium*, p. 268, BM, fol. CXV^r: '[...] we ask and request you [...] by this letter (although we could order and mandate) [...]; Vos [...] rogamus et requirimus per præsentes (quamvis possimus precipere et mandare) [...].

⁹¹ *Ibid.*, p. 270, fols CXV^v - CXVI^r, contain a letter threatening excommunication for not taking the oath.

⁹² *Ibid.*, p. 270, fol. CXVI^r: 'But if they do not appear after the stated time has elapsed, they are to be made known publicly as excommunicated and should be publicised in the cathedral [...]'; 'Si autem non comparuerint, elapso dicto termino, publicentur excommunicati, et publicari mandentur in ecclesia cathedral [...].

⁹³ *Ibid.*, p. 272, fol. CXVI^v and p. 275, fol. CXVIII^r: '(This will happen) in your churches while solemn mass is being celebrated and there will be a multitude of people there: you will read out, or have read out by others, the aforesaid letters, aloud, in the vernacular and in an intelligible way, notifying all as indicated above that we are depriving the aforesaid and anyone else associated with them of the aforesaid public offices which they previously occupied [...]: in vestris ecclesiis dum Missarum sollempnia celebrantur, et populi erit inibi multitudo: præfatas nostras literas alta voce in vulgari, et intelligibiliter publicetis, ac faciatis per alios publicari: notificantes omnibus ut supra, quod nos prædictos et eorum quemlibet spoliavimus officiis publicis antedictis, quibus antea utebantur [...].'

⁹⁴ *Ibid.*, p. 276, fol. CXVIII^r: 'However it is better that the inquisitor does not go ahead with such a punishment but that the refusal of the city is explained to our Lord Pope [...]; Tamen melius est quod ad tantam pœnam per inquisitorem non procedatur: sed civitatis contumacia domino nostro Pape exponatur [...].'

Eymerich is using the oath as a means to get the inquisition's work started, and what he proposes might be effective in that context. He differs from Gui in that there seems to be no requirement in the *Directorium* for the secular authorities to take a further oath at *sermones* (although they were present). In purely legal terms the two approaches should have had identical effect; they both committed the secular authorities to thorough-going co-operation with, and support for, the inquisition. But the oaths are used in different ways. Gui's uses the oath taken at each *sermo generalis* to *maintain* cooperation and achieve public support for individual decisions by the inquisition. For Gui the oath is a device with the same purpose as having secular officials present at confessions and the rational language used in the *culpæ* to convince. It is part of a pattern of behaviours aimed at consensus-building around the inquisition's actions. Indeed the successful construction of this consensus may be one of the reasons why Gui was successful in keeping the support of the secular authorities in an environment where there may have been some hostility. Gui does not mention in the *Practica* any question of compulsion to take the oath.

Eymerich, on the other hand, uses the full weight of inquisition law to get the oath taken before the inquisition has done its work. Whereas Gui's oath is a practical way of getting 'buy-in', there is a ritual aura to Eymerich's way of proceeding. Essentially the refusal to secure the oath will secure a religious and ceremonial response, which in the case of continuing refusal would be the extinguishing of candles and the ringing of bells. Francisco Bethencourt, in his history of the (early modern) Inquisition, points out that Eymerich's procedure had much more resemblance to the rites accompanying the Spanish Inquisition to Spanish towns than Gui's. Bethencourt sees as one of the principal innovations of the new Spanish Inquisition was the growing complexity of the rites accompanying the oaths.⁹⁵

Non-financial Arrangements – other Issues

Inquisitors often depended on the secular authorities to apprehend suspects and keep them in custody until transferred to the inquisitors, and this part of the process seems from the *Practica* and *Directorium* to cause the inquisitors particular concerns. Both Gui and Eymerich tackle the issues of non-cooperation or even passive resistance on the part of the secular authorities.⁹⁶ Gui

⁹⁵ Francisco Bethencourt, *The Inquisition* (Cambridge: Cambridge University Press, 2009), p.42.

⁹⁶ *Practica*, pp. 213-14.

gives three types of failure to cooperate (*'impedimenta'* or 'hindrances'), the third category of which concerns notaries and *iusperiti*.

The first category of failure concerns top level power-holders.⁹⁷ Cooperation might be limited by the fact that they do not possess *de jure* powers or have been excommunicated; there is papal dispensation to ignore these difficulties. Cases of negligence can be dealt with by excommunication if necessary. Gui quotes from *Ad extirpanda* that those responsible can be treated as 'of bad reputation, supporters of heretics and suspect in faith: *infamis, hereticorum fautor et de fide suspectus*'.⁹⁸

The second category of difficulty, probably arising from junior staff, consists, first, of inadequate resources being made available for the inquisition's tasks; this is circumvented by the inquisitors being able to specify what they need.⁹⁹ If officials are negligent or inadequate the inquisitors can move them aside; and if they do not carry out their duties (*infideles ipsi officio*) they can be moved and punished.¹⁰⁰ In reality this would have been difficult to achieve; administrative failure may not be clear cut and removing individuals may not solve problems. Ecclesiastical censure was a blunt instrument and Gui may well have realised this. He saw the value of support which was active and cemented by the personal authority of the king. Hence in his Part 4 in the section dealing with '*impedimenta*' or hindrances to the inquisition Gui gave a condensed view of the form of his relations with the secular authorities:

But in the kingdom of France inquisitors act and use the services of the king's officials and of counts and barons [...] whom the inquisitors can require (to act for them) and if, having been required, they are negligent or wanting, the inquisitors can compel and coerce them by ecclesiastical censure.

Gui then points out that 'by virtue of a letter from the king of France' 'they are held to provide help and opportune advice to the inquisitors' and 'to obey simply the inquisitors' mandates and requirements in everything which pertains to the inquisition' But they do co-operate because

⁹⁷ Ibid., p. 213: '[...] rectores, vel potestates aut alicui regimini presidentes.'

⁹⁸ Ibid., p. 312.

⁹⁹ Ibid., p. 213: '[...] non sufficienter ad executionem officii.'

¹⁰⁰ Ibid., p. 214.

they know of the king's devoted and free will to this end.'¹⁰¹ This describes a relationship where formally the inquisitors expected help on a cooperative basis, and there was a mechanism for compelling cooperation. But in practice cooperation had to be secured by calling on the support of the king. This both pointed to the limits of the inquisition's power and made it clear that the way to get results was to use the king's support rather than canon law. It is an example of Gui using his authorial voice to put over a message on a delicate matter, a message which was not in line with the inquisitorial ethos but was of considerable importance.

In the *Directorium* Eymerich similarly covers the question of junior officials who impede the inquisition, although it is expressed more legalistically than in the *Practica*.¹⁰² *Quaestio* 54 in Eymerich's '58 Questions about heresy relevant to the office of inquisition: *Quaestiones Quinquaginta octo de hæretica pravitate, ad officium Inquisitionis pertinentes*' in the Second Part has a section on those impeding the inquisitors. He does not give this issue as much prominence as Gui and much of this section is taken up with those who, in Eymerich's terms, directly impede the inquisition but are not the representatives of the secular authorities. There is, however, a category of indirect *impeditores* about whom Eymerich says:

'There are some who impede indirectly; for example they decree that none may carry arms unless they are of the *familia* of the temporal lord; consequently those who are from

¹⁰¹ *Ibid.*, p. 214: 'In regno autem Francie inquisitores agunt et utuntur ministerio officialium regis, et comitum, et baronum et aliorum dominorum castrorum seu locorum aliorum in territoriis suis, sive sint senescalli, vel baylivi, vel iudices, vel bajuli, vel servientes, seu quibuscumque aliis nominibus vel officiis censeantur, quos inquisitores possunt requirere et requisitos, si negligentes fuerint aut desides, per censuram ecclesiasticam compellere et coercere; necnon ex virtute litterarum regis Francie ipsis inquisitoribus concessarum omnes et singuli supradicti tenentur inquisitoribus prebere auxilium et consilium opportunum et in omnibus que ad officium inquisitionis spectant eisdem inquisitoribus, et eorum mandatis, et requisitionibus simpliciter obedire, quod prompte faciunt et fecerunt, scientes ejusdem regis devotam et ad hoc spontaneam voluntatem.'

¹⁰² See *Directorium*, p. 267, BM, fol. CXIIIr: '[...] said officials (of the sovereign) should follow the inquisitor's instructions in apprehending heretics, *credentes, receptatores*, defenders and fautors and those accused of heresy. In carrying this out against the aforesaid people they should do each and everything which pertains to their (inquisitors') office for the rooting out of heresy and extolling the Catholic faith, when, and as many times as, required by the inquisitor personally or in his name'; '[...] dicti officiales inquisitori pareant in capiendo hæreticos, credentes, receptatores, defensores, fautores, ac de hæresi diffamatos; ac in executione facienda contra prædictos faciant omnia et singula, quæ ad eorum officium spectant, pro extirpanda hæretica pravitate, et extollenda catholica fide, quando and quotiens ab inquisitore, vel eius nomine fuerint requisiti.'

the inquisitor's *familia* cannot carry arms; which is to indirectly impede because no one can arrest anyone or have him arrested, unless it is the temporal lord; consequently those of the inquisitor's *familia* cannot arrest and so on [...].¹⁰³

These restrictions were imposed by the secular authorities in Aragon; there is no indication of how senior the level was. They would in fact have prevented any independent action by the inquisition in capturing heretics. Was this deliberate and part of Eymerich's confrontations with the Aragonese crown? Or the unforeseen consequence of a policy introduced for other reasons? Eymerich sees it as a cause for excommunication which in his view is automatic ('they are not heretics but they are excommunicate: nec sunt hæretici, sed sunt excommunicati') but not for an immediate declaration of heresy. There is no suggestion on how to get around this difficulty in any other way. One suspects that a more conciliatory approach might be better; but it is impossible to make any definitive judgment without knowing much more about the circumstances.

The previous *Quaestio* 53 also deals with the secular authorities as possible *fautores* of heretics. Public authorities can be *fautores*, and thereby be subject to inquisitorial processes, by omission or commission; private individuals only by commission. Eymerich gives two examples, one of omission and one of commission. Omissions include failing to comply with inquisitorial instructions by not capturing heretics or failing to hold them securely or delivering them where they are wanted. Acts of commission include letting suspects out of prison without inquisitorial or episcopal permission or impeding the trials, judgments or sentences of the inquisition.¹⁰⁴

There is commonality between the approaches of Gui and Eymerich. Both believe that the relationship with the secular arm could potentially cause *impedimenta* for inquisitors. Both point to considerable powers to deal with this obstruction, which underpinned their role and which no doubt could on occasion be used. But there was no effective control over the sovereign, although Eymerich gamely makes a legal argument. Eymerich was no doubt right to stress the importance of getting the support of the secular arm in all its components when an

¹⁰³ *Directorium*, p. 257, BM, fol. CX^v: Quidam vero sunt, qui impediunt indirecte; utpote, qui statuunt, quod nullus portet arma, nisi de familia domini temporalis: nam consequenter qui sunt de familia inquisitoris non possunt portare; quod est indirecte impedire vel quod nullus possit capere aliquem, vel capi facere, nisi dominus temporalis: nam consequenter qui sunt de familia inquisitoris non possunt capere, et similia [...].

¹⁰⁴ *Ibid.*, pp. 256-57, fols CX^r - CX^v.

inquisitor first took up office; if Gui omits this it is because it was not an issue he faced. But Gui's tactics in binding in the secular arm to his activities by renewing oaths at each *sermo generalis* and using the sovereign's authority to remove *impedimenta*, neither of which Eymerich suggests, show both an accomplished administrator and a close identity of aims between inquisition and secular arm. Eymerich's approach may indicate a more confrontational mind-set and reflects the distance at times between the Aragonese crown and Eymerich. There is also a more ritualistic flavour about in Eymerich's way of proceeding.

Notaries and *iurisperiti*

Notaries and *iurisperiti* were an integral part of the inquisition process, but did not necessarily share the overall aims of the inquisitors. Notaries were chosen by the inquisitors, effectively as part of the 'team' and could have been fellow Dominicans. In practice Gui used legally qualified people, public notaries, outside the Dominican Order. *Iurisperiti* were outside legal experts and included representatives of the local prelate. These two categories were far more of an issue for Gui than for Eymerich.

Gui mentions notaries, who record the inquisition's work, including witness statements, as a possible *impedimentum*. They may refuse the office of scribe (*officium tabellationis*), in which case both lay and secular notaries can be compelled by inquisitors.¹⁰⁵ In fact Gui's own record in the *Sententiae* shows that he was conservative in his use of notaries at *sermones*. Between 1308 and 1316 he only used two men, Pierre de Clavières '*publicus Tholose notarius et juratus officii inquisitoris*' and Jacques Marquès '*notarius inquisitionis*'. From 1319 onwards (there were no *sermones* in 1317 and 1318) Guillaume Julia was a constant feature at most events where a *notarius* is named. Julia describes himself as 'a clerk of the diocese of Limoges' and was therefore a native of Gui's *pays*.¹⁰⁶ It is quite possible that Gui was promoting someone connected to him, with the advantage that he could expect loyalty and discretion. Indeed the very last *sermo* in the *Sententiae* shows yet another *limousin* being given preferment as a notary, one Bernard Sutor, who was partnered for the event by Jacques Marquès (absent for some 6 years) and Guillaume Julia.¹⁰⁷ Other notaries appear only where there is a special circumstance such as the *sermo* being held at Pamiers, where both Pamiers and Carcassonne notaries are

¹⁰⁵ *Practica*, p. 214.

¹⁰⁶ *Sententiae*, p. 1182: '[...] clericus Lemovicensis dyocesis.'

¹⁰⁷ *Ibid.*, p. 1634.

present.¹⁰⁸ Gui therefore seems to have avoided the dangers he describes by relying on a small and presumably loyal set of notaries. There would indeed have been other good reasons for sticking to a small number of experienced notaries, not least that Gui's large *sermones generales* would have been complex to manage and record. But Gui's choice of two *limousins* probably shows that he had some reservations even in 1319 about local notaries and preferred outsiders with some shared background. A *limousin* at that time, like Gui himself, would also have been a native Occitan speaker and so be well equipped to deal with proceedings at a *sermo*.

Eymerich makes no comment on the reliability of notaries. It is perhaps indicative of the conditions in Languedoc, where Catharism in particular had had wide social roots, that Gui chose to address the issue.

Gui offers advice on handling the counsel of *prelati* and *iurisperiti*, whose function was to ratify the inquisitor's decision on sentence.¹⁰⁹ For Gui the council was a significant part of the process and raised two issues. First *prelati* and *iurisperiti* are likely to be swayed by the identity of the person concerned and/or reveal names before the *sermo generalis*; Gui's jurisdiction was geographically small, and local interests would be strongly felt. As Gui said he wanted those consulted to judge 'without any feeling for the individual: sine affectione persone'.¹¹⁰ One way of obviating this difficulty was to present a summary of the case with the name removed and this seems to have been the usual practice.¹¹¹ The dilemma is that a summary may not lead to the best decisions. Therefore where possible the whole case should be set down.¹¹² This 'however was not the custom of the inquisition from the past'.¹¹³ That is confirmed by the *Doctrina de modo procedendi contra hereticos* which dates from the 1270s and which reflects the older way of doing things by means of a brief summary.¹¹⁴ There is no way of knowing

¹⁰⁸ Ibid., p. 1256 and p.1290.

¹⁰⁹ *Practica*, p. 83.

¹¹⁰ Ibid., p. 83.

¹¹¹ Ibid., p. 83: '[...] petitur per inquisitores consilium a predictis (i.e. prelati et iurisperiti), facta prius extractione summaria et compendiosa de culpis, in qua complete tangitur substantia confessionis cujuslibet persone quantum ad culpam illius de qua agitur, sine expressione nominis alicujus persone ad cautelam..

¹¹² Ibid., p. 83: '[...] omnia exprimerentur'.

¹¹³ Ibid., p. 84: '[...] tamen non fuit usus inquisitionis ab antique.'

¹¹⁴ *Doctrina*, col.1795: '[...] and once the council has met together, the inquisitors set out a brief abstract containing the substance of the confession, without making known the name of the person confessing [...]' – [...] et congregato concilio, Inquisitores abstractionem brevem

whether an expanded submission to the *iurisperiti* was Gui's personal innovation but that must at least be a possibility. The implication of Gui's words is that *iurisperiti*, and perhaps *prelati*, did not always observe confidentiality. Confidentiality mattered in order to avoid disruption when serious sentences were given, or to avoid attempts to appeal or otherwise disrupt the process. As Chapter IV shows there could be successful interventions in inquisition cases.

Eymerich on the other hand, while describing the procedure to consult *iurisperiti* and bishops, saw no difficulty in the process and suggested no special handling other than preserving anonymity.¹¹⁵ Indeed he suggested that *iurisperiti* and bishops could, if necessary, be given the names of those they are considering under pain of excommunication if they were revealed.¹¹⁶ This suggests that Eymerich did not see the same problems of 'feeling for the individual' as Gui saw. This perhaps reflects the fact that heresy had not become embedded in the same way in Aragonese society as it had in the Languedoc, where it had been present in all layers of society. But it perhaps also shows the care that Gui took in a difficult environment to get the right result.

Religious Authorities outside the Inquisition

Gui's relationship with the other religious authorities, if we are to take the evidence of his writings, involved tensions. In the *Practica* Gui treats the ecclesiastical authorities in the same section as the secular arm, in effect as possible *impedimenta*.¹¹⁷ The relevant section is divided into two parts, one covering those of higher rank than an inquisitor and the other those of lower rank. In both Gui points to the fact that many *impedimenta* used by ecclesiastical authorities have in the past been precluded by legislative action by popes. This includes taking away the rights of clerics in their capacity as judges to stop the inquisitors' proceedings or to require inquisitors to be obedient to them; taking away the right of senior ecclesiastics to excommunicate inquisitors and the right of papal delegates to do so unless they have an express mandate from the Holy See; prohibiting the starting of other procedures with the intention of blocking the inquisitors; and granting the Dominican Orders the right to draw staff from its

substantiam confessionis continentem in concilio, non expresso nomine confitentis, proponent [...].'

¹¹⁵ *Directorium*, pp. 379-80, BM, fols CLXII^r-CLXIII^r.

¹¹⁶ *Ibid.*, p. 380, fol. CLXII^v.

¹¹⁷ *Practica*, pp. 209-13.

own ranks when inadequate staff are made available by bishops.¹¹⁸ Although Gui drew the structure of this part of the *Practica* from *Quoniam* written in the 1270s, apart from the *impedimentum* of a bishop excommunicating an inquisitor, the examples of *impedimenta* and the corresponding legal remedies are Gui's.¹¹⁹

Gui's main concern, however, was the impact of the two new provisions, finally promulgated in 1317, *Multorum querela* and *Nolentes*, which give scope to ecclesiastical authorities to put in place new *impedimenta*. Gui refers to the '[...] considerable inconvenience which follows from them to the free and expeditious working of the office of inquisition'.¹²⁰ Gui returns to this theme a few pages later at greater length.¹²¹ He makes the point that the provisions should be changed. The submission from Gui to the pope in Doat XXX makes the case against the two provisions (*Multorum querela* and *Nolentes*) more fully and in more vigorous language.¹²² Like other parts of the Doat collection the 17th century copy contains errors. More significantly there is no date but the content suggests that it was probably written after 1317 when *Multorum querela* and *Nolentes* were promulgated. Gui's argument against one new *Multorum querela* provisions, that the inquisitor and bishop must agree to the use of torture, was that often the messengers and special guides of heretics were caught, who could most easily lead to heretics if they wished to reveal where they were. But they never wished to do this 'spontaneously: sponte' and delayed as much as they could so that 'heretics who are sometimes in a nearby place can get away because of the delay in time: hæretici qui aliquando sunt in propinquo loco ex ipsa mora temporis se valeant absentare'. In such cases the fear of torture often led messengers to reveal heretics. The requirement to consult a bishop would lead to injurious delay (*'periculum sit in mora'*). Distances were often quite great and inquisitors work in remote locations.¹²³ Also the requirement to consult will tend to break the secrecy of the inquisitors' work, because the greater the number of people in the loop the greater the risk of leaks. This can lead to risks to the inquisition's staff.¹²⁴ As for joint prisons Gui believed that because there were a number of episcopal but only two inquisitorial prisons the system of joint swearing of

¹¹⁸ Ibid., pp. 209-11 and pp. 216-17.

¹¹⁹ BNF, MS Doat XXXVI, fol. 1^r-36^r contains a version of the original text of 'Quoniam'.

¹²⁰ *Practica*, p. 174: '[...] nonnulla inconvenientia que consecuntur ex ipsis circa liberum et expeditum cursum officii inquisitionis.'

¹²¹ Ibid, pp. 187-88.

¹²² BNF, MS Doat XXX, fols. 90^r-132^v.

¹²³ Ibid., fols. 100^r-101^v.

¹²⁴ Ibid., fol. 102^r-102^v.

guards would be difficult to achieve.¹²⁵ There were practical problems with releases and the different lots of prison guards did not get on.¹²⁶ Inquisition prisons were paid for by the king, who would not pay for the extra staff needed to double man prisons as required by *Multorum querela*.¹²⁷

The case Gui makes against *Multorum querela* and *Nolentes* is plausible, but it is not at all clear how much this is drawn from actual experience and how much is a prediction of what *might* happen under the new provision, coloured by Gui's suspicions. Gui gives some evidence of bishops' unwillingness to cooperate: one bishop 'delayed a trial of some persons of his diocese for two years or more: per duos annos et amplius retardavit processum fieri quarumdem personarum suæ diocesis' and another delayed for a year and a half.¹²⁸ But we know nothing about the circumstances of these cases and whether the bishops' dilatoriness was in any way justified on legal or other grounds. Gui's case here is polemical, and it is impossible to say how well founded his arguments are. We know that in fact they had no practical effect and *Multorum querela* and *Nolentes* continued. Indeed it is possible to say that Gui's thoughts here show that *Multorum querela* and *Nolentes* would deliver precisely the change which their creators had in mind in that they would curb abuse and hasty decision making.

Some historiography has played down the significance of *Multorum querela* and *Nolentes*. Strayer says: 'Like all of Clement's policies (Clement V presided over the Council of Vienne), this was a weak and almost useless attempt at reform'.¹²⁹ Lea also gives a typically dismissive account of the reforms.¹³⁰ But one suspects that underlying these judgments was a wish to see the activities of the inquisition severely curtailed or dramatic interventions by the episcopacy. That was almost certainly not the intention of *Multorum querela* and *Nolentes*. Neither the Church nor the secular arm wanted to stop the inquisition's activities, but rather to make sure that it acted in a way which was not counter-productive, avoiding events like the *rabies carcassoniensis* (to use shorthand). Joseph Strayer recognised this limited aim for reform of the inquisition ('[...] he (Philippe) only wanted to be sure that those who were punished were

¹²⁵ *Ibid.*, fols 108^r–108^v.

¹²⁶ *Ibid.*, fol. 108^v.

¹²⁷ *Ibid.*, fol. 109^r.

¹²⁸ *Ibid.*, fol. 104^v.

¹²⁹ Joseph Strayer, *The Reign of Philip the Fair*, (Princeton: Princeton University Press, 1980), p. 298.

¹³⁰ Lea, *Medieval Inquisition*, II, pp. 57-98.

heretics and that the punishments were not excessive’).¹³¹ Rather the two provisions were aimed at inducing restrained inquisitorial behaviour in the Languedoc, and the evidence of the *Sententiae* and d’Ablis and Fournier’s cases is that inquisitorial behaviour was modified by the various measures taken by Philippe and Clement V, without damaging the effectiveness of the inquisition and perhaps even helping its success. Against this background one might see Gui’s comments on *Multorum querela* and *Nolentes* as letting off steam.

Eymerich had no problems with either *Multorum querela* or *Nolentes*. He presents them simply as one part of inquisition law. Perhaps more significantly he shows the provisions working in practice. For example when he relates the condemnation of Astruc de Pieira, one of the seeming highlights of his inquisitorial career, the bishop is present and jointly announcing the condemnation.¹³² Similarly a decision to torture a suspect is correctly noted as for the inquisitor and bishop.¹³³ No obviously clerical examples are given for *impeditores* (unlike Gui). Eymerich certainly did find in practice that his inquisitorial activities were hindered by other clerics (e.g. Bernard Ermengau); but Eymerich does not allude to those difficulties. The changes in *Multorum querela* and *Nolentes* had been successfully incorporated into inquisitorial practice.

Conclusions

The evidence is that Gui had a good working partnership with the secular authorities. It can be seen that Gui understood the need to maintain this partnership by the way he ensured that the secular authorities attended *sermones* and by their swearing an oath on each occasion to support the inquisition. Gui’s own experience in Carcassonne in 1303 and events afterwards may have helped convince him that such cooperation was essential; Geoffroy d’Ablis took similar steps and the two probably exchanged experiences and practices. There is little

¹³¹ Strayer, *Philip the Fair*, p. 299.

¹³² *Directorium*, p. 251, BM, fol. CVII^v: ‘When this Jew had been captured, *the aforesaid bishop and inquisitor* made the same Jew publicly abjure in the cathedral church in Barcelona on the Feast of the Circumcision of Our Lord and sentenced him to perpetual imprisonment’. ‘Quo Iudæo recuperato, *præfati episcopus et inquisitor* (our emphasis) eundem Judæum Barchin. in ecclesia cathedrali, in festo Circumcisionis dominice fecerunt publice abiurare, et eundem sententialiter carceri perpetuo mancipavit.’

¹³³ *Ibid.*, p. 251, fol. CVII^v.

evidence of poor relations with other Church authorities causing difficulties in practice but the restrictions of *Multorum querela*, following on other restrictions even before the Bull was promulgated in 1317, were not welcome. Doat XXX shows a degree of tension over the new arrangements, although it is not clear to what extent this reflected real experience or just concerns about what might happen. A wholly independent inquisition was at best an aspiration; the inquisition which carefully cooperated with all concerned with the inquisitorial process was the reality. Gui proved successful as an inquisitor, in part because he was careful in his relations with the secular authorities, who shared his aim of controlling Catharism and other heresies. Indeed it may well be that the pressures and lessons from the measures taken in the early 1300s, which were formalised in *Multorum querela* and *Nolentes*, helped make Gui a more effective inquisitor by limiting the inquisitors' power and encouraging a consensual approach. Underpinning this was a common interest on the part of both the inquisition and the secular arm in dealing with heresy. Against this pragmatic background the elevated role for the inquisition described in Part IV of the *Practica* can be seen as aspirational, a view of the inquisition which Gui wished to preserve.

Lea argues that after Gui's time the inquisition became subordinated to state, because by eliminating the Cathars it had 'done its work too well' and 'had become superfluous as an instrument for the throne [...]'.¹³⁴ In support of this thesis Lea refers to a case of 1322 in Toulouse, when Gui was still inquisitor, in which the Viguiier of Toulouse accused an Abbott (Amiel de Lautrec, Abbott of Saint Sernin) of heresy in that he thought the soul only immortal through grace. The inquisition found no heresy and the Procureur-Général referred the case to the Parlement, which agreed with the inquisition. Lea saw this as asserting the primacy of the secular power.¹³⁵ More seriously Lea sees a declaration in 1334 from Philippe VI that the inquisition should enjoy all its ancient privileges 'for these are treated as wholly derived from the royal power'.¹³⁶ In fact this seems to be little more than the formal expression of what Gui had in writing from the king of France; it is merely an instruction to the king's officials to provide all assistance to the inquisitors in the way that the secular arm always had.¹³⁷ Lea's other examples include a decision in 1368 that the Carcassonne

¹³⁴ Lea, *Medieval Inquisition*, II, p. 130.

¹³⁵ Vic and Vaissette, 10, *Preuves*, col. 35.

¹³⁶ Lea, *Medieval Inquisition*, II, p.131. Lea's sources are Vic and Vaissette, 10, *Preuves*, cols 37-38 : and BNF, MS Doat XXVII, fol.118.

¹³⁷ *Practica*, p. 214.

inquisitor must be paid by the city (already referred to above) because confiscations no longer provided sufficient revenue. As Lea puts it, ‘the inquisitor was a royal official and must be paid by the city if not by the state’.¹³⁸ But that was just as true in Gui’s time.

Gui was effectively an employee of the French state, who was insulated from the level of income the inquisition generated. The inquisition may or may not have represented good value for the French Crown, but it certainly helped secure the Crown’s wider aims, as long as the inquisition acted cautiously. But while Gui’s relationship with the secular power was in fact close and dependent, the ethos of the inquisition, or indeed of the Church as a whole, could not accept that. One small example from the *Practica* show this clash between the reality of secular influence and the inquisitorial ethos. The formula in Part 2 for relieving ‘someone’ from all punishment and penances makes clear that this happened at the ‘instance and prayers’ of ‘many good men and solemn persons’. What is noteworthy is Gui’s comment that this is something ‘which should never or only very rarely happen’.¹³⁹ Evidently in practice some highly placed people could have more influence on the inquisition’s work than we might think from Gui’s rhetoric in Part 4. By including this formula Gui was giving an indirect lesson on the delicate question of how to deal with external influence.

Eymerich’s *Directorium*, and indeed Eymerich’s career as inquisitor in Aragon, do not show the same easy cooperation with the secular authorities. The *Directorium* shows a schema for securing cooperation; but it is not a continuing process – there are no oaths at each *sermo* - and the language is laced with a threat of sanctions. But probably the strongest reason why Eymerich failed to get cooperation is that he was trying to extend his jurisdiction and he was from the point of view of the secular arm a trouble-maker. As Josep Perarnau i Espelt has pointed out Eymerich had secured a triumph in the case of Astruc de Pieira, but triumphs against the other party are not conducive to good partnerships.¹⁴⁰ Nor was there a problem of heresy which the secular authorities and the religious/inquisitorial authorities agreed needed

¹³⁸ Lea, *Medieval Inquisition*, p. 132. Lea’s sources are Vic & Vaissette, 10, *Preuves*, col.50.

¹³⁹ *Practica*, p. 56: ‘[...] quod nunquam vel rarissime fieri debet.’

¹⁴⁰ Josep Perarnau i Espelt, ‘Contra infideles fidem catholicam agitantes and Tractatus de hæresi et de infidelium incredulitate et horum criminum iudice’ (edition) in *Arxiu de textos catalans antics* 1 (1982), 79-126, (p. 81): ‘És indubitable que l’inquisidor havia obtingut un triomf, en el sentit que havia vist confirmada per l’autoritat suprema de l’Església i acceptada, almenys de fet, per la suprema autoritat civil (la carta del rei datada el 25 d’octubre de 1371, recollida en l’apèndix, ho demostra), la seva posició en aquell afer.’

to be tackled. Eymerich's campaigns against the Lullists, Jews and sorcerers had no attraction for the Aragonese king; if anything they caused unrest rather than reducing it. There was as a result little or no partnership.

The financial state of affairs in Gui's day ceased to be the norm over the 14th century and by Eymerich's time it has ceased to be a viable model because, with lower receipts, states were unwilling to finance the inquisition and problems of heresy were seen as less pressing. The inquisitors in Carcassonne had to be paid for by the city rather than the Crown. Eymerich had to finance his inquisition from the proceeds resulting from its judgments but, as he mournfully points out, there are no longer rich heretics. Cutting the financial umbilical cord to the secular arm was, however, not without consequence; it enhanced the autonomy of the inquisition. Eymerich's lack of common purpose with secular arm, which stemmed from wider causes discussed elsewhere, was reinforced by financial independence and, if we use Patschofsky's categories, in Eymerich's time heresy and inquisition were simply not a fully effective framework for the articulation of overall social processes. Eymerich as inquisitor was offering a package which was not attractive to the secular arm of his time; and his distance from the secular power may in part account for the inquisitorial developments described in Chapters V and VI.

Chapter IV: The Theatre of Inquisition

Introduction

This chapter sets out what can be learnt from Gui's *Practica* and Eymerich's *Directorium* about the relationship between the 14th century inquisition in the Languedoc and Aragon and what might be termed the 'public' of the Languedoc and Aragon. This relationship with the public was conducted formally and most dramatically through the *sermones*, at which the inquisitors' decisions were made known and convicted heretics were formally told of their fate. This chapter will not cover those suspected of heresy, who are covered in Chapter VI.

It is likely that all inquisitorial actions, such as the seizure of suspects, the release of suspects and even the inquisitors' movements, were watched carefully by many in the Languedoc in Gui's time. Gui talks in the *Practica* of the impact of the release of suspects because a case could not be made against them. This would be seen as being done 'in a confused way: quasi confuse' and the faithful would see it as 'a matter of outrage: materiam scandali'.¹ Inquisitors had to think carefully about every public move; and the compendious *Sententiae* and the *Practica* both give evidence that Gui's approach as an inquisitor was framed in part by the public of the Languedoc.

The public had no direct access to the processes of the inquisition before the *sermo*, which took place behind closed doors, but there were both formal (e.g. court procedures, lobbying those with power or influence) and informal ways (e.g. riots, assassinations), which could be used, and were used, to influence the inquisition at different times. As mentioned in Chapter III, lobbying through well placed people seems to have been effective on occasions with Gui's inquisition, as the formula for relieving 'someone' from all punishment and penances as the result of representations of 'many good men and solemn persons: multorum virorum bonorum ac sollempnium personarum' mentioned in Chapter III indicates.² No cases are known where this formula was used but the laconic tone of the entry in the *Practica*, and the fact that the documents in Parts 1-3 seem to have been documents actually used by the

¹ *Practica*, p. 236.

² *Ibid.*, p. 56.

inquisition, make it likely that it was used at least once and quite possibly more often. This procedure may well have acted as a useful safety valve when public opinion saw the inquisitors' actions as unjust. Direct action (Gui's *rabies carcassoniensis*) was also successfully used against the inquisition in Carcassonne as late as 1303, where the belief arose that the whole town had been put at risk of being considered relapse as a result of a collective abjuration. Concessions were subsequently wrung from the authorities. No doubt the inquisitors wished to avoid this kind of situation if at all possible.

But, even when matters were not at crisis point, the inquisitors needed at least some public support to continue to operate successfully against heretics and to achieve their wider aim of promoting the faith. The inquisition was dependent on the secular power, and the Seneschal in Toulouse and other officials in Gui's time might well have been prepared to use their power to blunt the inquisition's activities, had they felt that the inquisition was losing the support of a substantial or influential section of the Languedoc public. This can be inferred from actions in the early 1300s, from the steps that Gui and his colleague d'Ablis took to secure buy-in to their work from the political and religious élites (see Chapter III), from the evidence that Friedlander adduces about some royal officials in the Languedoc and the inquisition's reluctance to pursue them and indeed from the *Practica's* discussion in Part 4 of the ability of officials to hinder the inquisitors.³

Successful management of the relationship with the public, like the relationship with the secular arm, was therefore a necessary part of the inquisitor's work. But, like relations with the secular arm, this reality is not directly addressed as an issue in either the *Practica* or the *Directorium*, apart from the passage from the *Practica* quoted above. This was a 'delicate' part of the inquisition's work. The inquisition was not unique in this; courts in general rarely admit to outside influences in their decision-making because it is seen to detract from independence and objectivity, and part of the ethos of the inquisition was an ability to rise above such influences. For example Gui's 'eulogy' of the height, length, depth and breadth of the inquisition's power in Part 4 does not readily allow for the realities of countervailing power.⁴ But although this issue is not tackled in its own right in either the *Practica* or the *Directorium*,

³ Friedlander, 'Les Agents du Roi face à l'Hérésie', pp. 199 – 220, and *Practica*, pp. 213-14.

⁴ *Practica*, p.175.

the need the inquisitors felt to retain public support for and confidence in the inquisition can be seen in both works and indeed helped shape the way the inquisition worked.

The inquisitions in the Languedoc and in the Kingdom of Aragon lacked the transparency of modern courts.⁵ The anonymity granted routinely to witnesses, the *in camera* nature of proceedings, and the restrictions on mounting a defence, go far beyond the best modern ideas of justice. But the inquisition operated in small societies in which there were many personal links. Gui's comments about the *iurisperiti* show this. Cases considered by them had to be anonymised so that they could give advice on the disposal of cases 'without any feeling for the individual'; one can infer that *iurisperiti* would frequently know, or know of, the people involved.⁶ Similarly in the *sermones*, given the small scale of Toulouse or Carcassonne society, the practice of the inquisition in reading out *sententiae* and *culpa*e would have had a direct impact and aroused considerable interest.

The 'public' is a multifarious category. For convenience it is divided here into three sections, which probably overlapped in practice. The first might today be called opinion formers and would include the richer more influential citizens (e.g. lawyers and merchants) and the minor nobility, all of whom, while not enjoying direct power, could influence decisions by lobbying others; they might or might not belong to the second section. In Aragon parts at least of this group opposed Eymerich strenuously in relation to the banning of Llull and in other ways.

The second category might be those with some level of heretical involvement. In the Languedoc this consisted of those still holding Cathar beliefs of varying strengths and commitment and those who were no longer believers (*credentes*), but who had had Cathars in the family in the past. The latter were by the early 14th century probably the more numerous but under canon law they could still lose property which had belonged to heretical forebears and suffer civil penalties on account of the actions of grandparents (i.e. being excluded from public or ecclesiastical office).⁷ There was no time limit applying to the bringing of a case by

⁵ Insofar as they were acting as courts in our understanding of the concept. They also acted as police, and even today police investigations are for good reason not transparent.

⁶ *Practica*, p.83: 'sine affectione persone'.

⁷ *CIC*, 2, col. 1070 (Alexander IV): 'But heretics and their followers, receivers, defenders and supporters and their children to the second generation may not be admitted to any ecclesiastical benefice or to any public office. If this has been done otherwise, we declare it null and void [...]'; 'Heretici autem, credentes, receptatores, defensores, et fautores eorum,

the inquisition. But evidence became more difficult to secure the further in the past an event lay, and effectively a *de facto* immunity was achieved when there were no living witnesses to heretical involvement by grandparents. Given that heretical activity had been widespread in the Languedoc until the 1240s there would still have been a substantial number of grandchildren who were still vulnerable to charges against their grand-parents in 1307, when Gui became inquisitor in Toulouse. By 1326, when he retired, this must have been a much smaller number.⁸ No equivalent category of people existed in Aragon, where there had been no mass heresy, and Eymerich pays much less attention to defunct heretics than Gui. For example he gives no stage directions for handling such cases, unlike Gui who gives them full measure in his instructions for a *sermo*.⁹

The last category would be those, certainly a large number, who, and whose forebears, had never had any involvement in heresy. Insofar as this category is of importance it is because many, if only because of personal and local loyalties, would have a view on the fairness or otherwise of inquisition decisions. They were a group that inquisitors had to reassure about the reasonableness of their decisions.

Gui's *Sermones*

The *sermones* were the inquisitors' most important opportunity to communicate at various levels to the 'public'. That public doubtless included humbler members of the community, including family and supporters of the heretics condemned at the *sermo*, and certainly many ecclesiastical and secular dignitaries and many local religious. There is no full eyewitness description of a *sermo generalis* in either Gui's or Eymerich's time so we have to use the limited evidence, in particular Gui's *Practica* and *Sententiæ*, and Eymerich's *Directorium*, to reconstruct the event and analyse any differences in Gui's and Eymerich's concept of, and approach to, the event.

James Given has described the *sermo generalis* as:

ipsorumque filii usque ad secundam generationem ad nullum ecclesiasticum beneficium, seu officium publicum admittantur. Quod si secus actum fuerit, decernimus irritum et inane [...].

⁸ Assuming grandparents in their 20s in 1245, any grandchildren would be in their 50s or 60s by the 1320s. The cohort of those at risk must at that time have been fast diminishing.

⁹ *Practica*, p. 84.

[...] a desperate struggle over the moral constitution of a society, a contest that turned on such issues as the relation of the divine to the mundane, the spirit to the flesh, and divine authority to worldly power. [...] a struggle to impose a cultural and spiritual hegemony on the people of Languedoc, to win their active assent to the myths that justified the existing power and authority. In this there was no shared *conscience collective*, a shared universe of moral values regarded as sacred.¹⁰

This was probably an accurate description of *sermones* in Carcassonne when Geoffroy d'Ablis recommenced the work of the inquisition after the *rabies carcassoniensis* but it perhaps underplays the success the inquisitors had achieved by 1325. The inquisitors were successful in that, after 1303, there was no mass rebellion against the work of the inquisition, nor was there any break with the secular authorities. Given himself notes that violence after 1303 consists of plots involving small numbers of individuals, the majority of which were aimed at silencing other individuals. As he says: 'This pattern is clear and dramatic evidence of the difficulties experienced by Catharism during its last decades of existence in Languedoc, when it became a hunted underground church, afflicted with paranoia and declining into a self-destructive pattern of violence.' This can be seen as a reflection of the inquisition's success in that the forces that had protected Cathars were breaking down.¹¹

However desperate the situation in Carcassonne in 1303, by 1319 Bernard Délicieux could be successfully tried and condemned, and the threat from the spiritual Franciscans dealt with, without public unrest. This was not achieved simply by the crude use of force, although force was always a last resort for the Crown; other factors were working in the inquisition's favour. First, the spiritual hegemony to which Given refers was Catholicism, which had always been the majority belief in the Languedoc. The inquisition's aim was not so much the imposition of a new religion but the destruction of tolerance for heterodox beliefs. What had changed since 1209 (when Catharism was apparently flourishing) was the presence of a large mendicant force preaching (largely) orthodox Catholicism, which must have created sharper lines between orthodox and heterodox/Cathar belief in the minds of many. Second, there had by 1310 been more than 50 years of university training in law and theology at Toulouse and many of those

¹⁰ James Given, 'The Béguins in Bernard Gui's *Liber sententiarum*' in *Texts and the Repression of Medieval Heresy* (Woodbridge: York Medieval Press, 2003), p. 159.

¹¹ Given, *Inquisition and Medieval Society*, pp 115-17.

occupying positions of authority were both locally-born and had received that training and reached positions of power.¹² That training was similar to the training given to the inquisitors as Dominican friars. Whatever the culture of 1209, there was now increasingly a common legal training amongst the Languedoc elite, whether native-born or Northern French. That said, as Alan Friedlander has suggested, the Cathar connections of some of this élite may well have been a factor in inquisitors' calculations and they may have as a result been reluctant to drag up old cases.¹³ Third, there was no sustained effort at this time to eliminate the distinct culture of the Languedoc (e.g. its language) except insofar as it involved heterodox religious beliefs. This provided a firm cultural basis for the inquisition's work. Nevertheless, given recent history, the inquisition still had to tread carefully and, as is shown below, this helped frame the inquisition's way of working.

To judge from the *Sententiæ* and the *Practica*, Gui's *sermones* were dramatic events. They involved the relaxation of the punishments of many; the taking away of crosses and the ending of imprisonment; reconciliation to the Church on the part of those who abjured (always the majority except at a *sermo specialis*); the announcement of the terrible punishment for those who were *relapsi* and those who refused to abjure; and punishment in this world for the heretic dead who were beyond redemption. The overall message was intended to be one of hope and mercy but also a stern reminder that persistence in betraying God would not go unpunished.

The elements were stage managed to achieve the greatest effect and to retain the interest of the audience. Instead of running through each case individually with the judgment and sentence given in full for each person separately, the process was divided up so that judgment of guilt (the *culpa*) was given for various blocks of people found guilty of heresy; the blocks were defined by the nature of the heretic and the punishment. The order is given in the *Practica*.¹⁴

¹² Marie-Humbert Vicaire and Henri Gilles, 'Rôle de l'Université de Toulouse' in *Effacement du catharisme?*, p.273. Their conclusion is: '[...] il faut reconnaître que les universitaires toulousains ont remporté en l'espace d'un demi-siècle une victoire éclatante car ils ont été les artisans de la transformation totale du monde juridique, de la transformation de la procédure et, par-delà même ces transformations formelles, ils ont contribué pour une bonne part à transformer les mentalités.' Joseph Strayer, *Les Gens de Justice du Languedoc sous Philippe le Bel*, (Toulouse: Association Marc Bloch, 1970), p. 48: '[...] il semble évident que la plupart des gens de justice (au temps de Philippe le Bel) étaient natifs du Languedoc, d'origine bourgeoise, et formés dans les écoles de droit de la région.

¹³ Friedlander, 'Les Agents du Roi face à l'Hérésie'.

¹⁴ *Practica*, p. 85.

The actual sentences (*sententiæ*) were then given for that block of cases. The *culpa* would show what the punishment was likely to be; but even if the audience knew what was coming by way of sentence there would still have been suspense in waiting to hear the actual portentous sentence. Although the *culpæ* were in Occitan, the *sententiæ* were in Latin; but the formulaic Latin words of the *sententia* must have been intelligible to many people, even those who only spoke Occitan, a language not too far removed from Latin.

The *sermones* sent out messages about the Church and heresy by being a kind of counterpoint to criminal rituals at criminal trials and punishments. Although Foucault sketched out some broad ideas on medieval justice systems, that was done more with the aim of describing the system from which the modern punitive system has evolved than of exploring the previous model.¹⁵ Esther Cohen, who takes account of Foucault's ideas, has written in more detail on medieval criminal rituals in France. Criminal rituals were aimed above all at punishing the body in a way that had meaning for the onlookers. As Cohen puts it:

They [legal rituals] were based upon a whole stratum of commonly-held cultural associations pertaining to the human body, human society, nature, and the universe. Hence they could and were used to enunciate, in a visual, dramatic way, extra-legal norms and beliefs in all those fields.¹⁶

Even non-capital punishments were 'meant to shame the culprit by exposing him to pain and public derision... the reasons for the defamation were inevitably spelled out.'¹⁷ Cohen explains why this was done as follows: 'The purpose was two-fold: the liminalisation of an offender not only lessened his danger to normative society; it also drew by contrast the boundaries of the established community.'¹⁸ This was communicated by the way the punishment process was designed. As Mitchell Merback puts it:

Many individual features of judicial proceedings, from the clothing of the judges at sentencing to the method of transporting the condemned to the gallows, the oratory of

¹⁵ Foucault, *Surveiller et punir*.

¹⁶ Esther Cohen, p.75.

¹⁷ *Ibid.*, p. 163.

¹⁸ *Ibid.*, p. 80.

the *amende honorable*, the prayers and the hymn-singing, and the executioner's performance, were spectacle, demanding the closest attention.¹⁹

He also says of capital cases:

[...] punishment operated as both a projection of the majesty of the law, the sovereign's power to monopolise violence, and a quasi-religious ritual in which the community at large ushered the condemned culprit into death and thus a new social role.²⁰

An analysis using Cohen's and Merback's ideas can equally be made of the inquisition's *sermones*, but it is the *sermones*' differences from secular events that are perhaps most significant. First the basic issue in the *sermo* was the individual's soul and its reconciliation to God through abjuring heresy. In many cases the Church could engineer that reconciliation and at least the possibility of the soul's salvation. This was a direct contrast to criminal ritual where it was the guilty party's body which was (often) punished. The Church was in fact demonstrating its power not over the body but over the soul. Second, punishments (apart from capital punishment) were designed primarily to achieve penitence rather than punish the body, although they did the latter as well. The phrase often used – 'the bread of suffering and the water of tribulation: panis doloris and aqua tribulationis' - was part of penitence, not a simple threat of punishment. Only those who did not abjure or who were *relapsi*, that is those who in the eyes of the Church were confirmed heretics whose destruction was necessary for the preservation of the Church and its members even if (in the case of *relapsi*) they could be reconciled, were punished in a way that had no penitential element. That punishment took place *outside* the sacred sphere of the church, which was different from criminal cases where the body was punished *within* the system. Third, the *sermo*, like criminal rituals, served to express what Esther Cohen describes as the liminality, the outsideness, of the confirmed heretic but also the inclusiveness and reconciliation that the Church offered to those prepared to abjure. Abjuration, if sincere, would lead to the person concerned being reconciled to God and the ending of the outsider status. This had a parallel with the *amende honorable* by which the criminal, regardless of his fate, was reconciled with the sovereign. But the inquisitorial process allowed the penitent, who were not *relapsi*, to escape capital punishment; those convicted of

¹⁹ Merback, p.19.

²⁰ Ibid., p. 18.

criminal offences approaching the seriousness of heresy rarely had a second chance. The Church could be seen as merciful.

Inquisitorial ceremonies did not only gain meaning from criminal ritual. There was also a tradition of public solemn penance for grave and notorious sins which either did not go before the criminal courts, such as priestly concubinage, or like blasphemy were triable in ecclesiastical courts as well secular courts. In Northern France the penance involved attendance at a cathedral on Ash Wednesday, a confession of sentence and the imposition of some kind of penitential activity. Attendance was 'semi voluntary'.²¹ In broad terms this is similar to procedures at an inquisition *sermo*. Mary Mansfield has not found much evidence of such procedures in southern France, although this view is derived from the absence of evidence in synodal and diocesan statutes.²² It may well be that solemn public penance influenced inquisitorial *sermones*, which might be seen as hybrid of both solemn penance and criminal procedure.

Dyan Elliott has written about the parallels between the *inquisitio hereticæ pravitatis* and the inquisitorial canonisation process, which go beyond the fact that both are called *inquisitiones*. She identifies similarities between the ritual translation of a saint's remains to a new and grander resting place which often accompanied canonisation and the translation of condemned heretics to the secular arm and the destruction of their bodies. This could happen posthumously with the exhumation and destruction of defunct heretics.²³ She also makes the point that canonisation was far more rigorously probed than heresy.²⁴ Elliott makes these points in relation to women but they would seem just as strongly to apply to men.

There was another dimension to Gui's *sermones*, which had more to do with rationality than theatricality. They were in a real sense an attempt to persuade the audience of the reasonableness of the Church's sentencing of individuals. James Given refers to this as justifying the inquisition's actions.²⁵ First the *culpae*, the judgments, were read out *in vulgari*

²¹ Mary Mansfield, *The Humiliation of Sinners* (New York: Cornell University Press, 1995), pp. 93-114.

²² *Ibid.*, p. 95.

²³ Dyan Elliott, *Proving Woman* (Princeton University Press, Princeton, 2004), pp. 138-42.

²⁴ *Ibid.*, pp. 142-43.

²⁵ Given, *Inquisition and Medieval Society*, p. 75.

(i.e. in Occitan), unlike the formal sentences, which were given in Latin.²⁶ That was obviously advisable; to have repeated the sometimes quite long *culpæ* in both languages would have unduly lengthened the proceedings, if nothing else. But it also suggests that the *sermones* were not purely formal legal exercises but were designed to communicate directly to a local audience. It is not clear to what extent the surviving *culpæ* were what Gui actually said. In one way they were certainly different in that they were delivered in Occitan not in their surviving Latin translation.²⁷ David d'Avray has shown that surviving sermons on the occasion of marriage, many written by Dominicans like Gui, are simply specimens, material to be drawn on.²⁸ In the same way it may be that on delivery there were additions to Gui's *culpæ* perhaps to emphasise the folly and evil of the heretics' behaviour, which would have been in line with the Dominicans' preaching mission. There is a suggestive comment in Doat XXVIII from a witness of a *sermo* in Carcassonne, Petrus Espere, that the friar delivering the *culpa* said of two spiritual Franciscans that they 'pour ordi et pour brun se voulent cremar: that they wanted to be burnt for barley and for brown'.²⁹ This is a dramatic way of encapsulating the spiritual Franciscans' arguments about storing grain and their loyalty to the Franciscan oath (perhaps the import of *brun* or brown, the colour of the Franciscan habit, although it is far from clear). This is not the style of most of Gui's *culpæ* which are in rather formal Latin, their aim being at least in part to record for future reference what the inquisition had decided, and why. It is possible that, when the *culpæ* were delivered, they were not just translated into Occitan but more rhetorical and popular material was included to persuade the public of the rightness of the inquisitors' case.

One passage in the *Practica*, a piece against the spiritual Franciscans already mentioned in Chapter II, may give some indication of what perhaps the *Sententiæ* do not record.³⁰ This might be the *sermo brevis* mentioned in the *Practica* as beginning the proceedings,³¹ but it might have been used as part of the *culpæ* against the supporters of the spiritual Franciscans, the Beguins. Again it might, like d'Avray's marriage sermons, have been intended to be a specimen piece

²⁶ *Practica*, p. 84.

²⁷ Contained in the *Sententiæ* and in Part 3 of the *Practica*, where some are given as specimens.

²⁸ David d'Avray, *Medieval Marriage Sermons: Mass Communication in a Culture without Print* (Oxford: OUP, 2001), p.61.

²⁹ BNF, Doat XXVIII, fols 249^v-250^r.

³⁰ *Practica*, pp. 145-50. The *Sententiæ* (p. 1795) contains a concordance between the *Practica* and the *Sententiæ* and this piece only occurs in the *Practica*.

³¹ *Practica*, p. 84.

on which future inquisitors could draw. The piece is strong rhetorically containing telling phrases such as ‘[] they pretend that the perfection of the evangelical life is in the monstrous deformity of bodily clothing: [...] *evangelice vite perfectionem in monstruosa deformitate corporalis habitus esse confingunt*’, a reference to the Spirituals’ short habits, and ‘[...] inventor of a new heresy and an ‘inviter’ to the old: [...] *nove inventrix heresis et veteris inviatrix*’ (the rhetorical force works better in the Latin).³² But it is also a meditation on the necessity for discipline. Gui refers to Christ’s own obedience in accepting death in contradistinction to the Spirituals’ rebellion: ‘Christ obedient as far as death for our salvation and to change our lives’, and on the riches of this world, which should be enjoyed but not used as an anchor.³³ It is tempting to see this as in some way Gui’s or at least a Dominican’s personal credo faced with the challenge of the spiritual Franciscans and it certainly reflects a strongly Dominican view of the world. It also shows the virtues of the Dominican rhetorical training in the *sermo modernus* with its concentration on a single theme.³⁴

It is impossible to know exactly how the *Sententiæ* were couched when they were delivered, how much they differed from what we have now. But the extant *sententiæ* are couched in terms of legal rationality, which in itself was part of the effort to persuade and justify. A notable example is the case of Guillaume Cavalier on 30 September 1319.³⁵ This case was difficult for Gui because it must have been well known that Cavalier had been tortured by the (for some) notorious Bernard de Castanet, with the implication that his confession was invalid. Cavalier had confessed in 1301 to heretical activity (attending two heretications and meeting heretics) but Gui stresses throughout his sentence that this confession was obtained ‘legitimately: legitime’.³⁶ Gui acknowledges that torture took place but points out that Cavalier was persistent in his admission even when not under torture. As he put it:

He confessed these matters (i.e. the crimes of heresy) in formal session before the inquisitor, the notary and friars as witnesses, when he was not in torture or torment and but when he was removed from the place and the torturers (*ministris*) and, as can be seen,

³² Ibid., p. 149 and p. 145 respectively.

³³ Ibid., p. 147: ‘Christus enim pro nostra salute et vite mutatione factus obediens usque ad mortem’; and p. 146.

³⁴ Michèle Mulchahey, “*First the bow is bent in study...*” - *Dominican education before 1350*, (Toronto: Pontifical Institute of Mediaeval Studies, 1998), pp. 400-19.

³⁵ *Sententiæ*, pp. 1178-82.

³⁶ Ibid., p. 1176.

after the passage of a full three days. He persevered assiduously in his confessions and after fifteen weeks were elapsed the same admissions were written and received by the notary [...].³⁷

Gui is essentially arguing that the evidence obtained by torture was perfectly valid, and corroborated by subsequent unpressured confession.³⁸

But the reason for Cavalier's conviction is not only the confession he made 18 years previously but the fact that he is still impenitent. As Gui put it:

‘[...] although advised and required canonically and peremptorily that he confess [...] or defend or purge himself in court [...] he did not wish to confess and refused otherwise to purge or defend himself.’³⁹

He was released to the secular arm for that reason. Indeed Gui made it clear that Cavalier could still save himself by abjuring and gave him time to reconsider.⁴⁰ What is notable is the detail with which Gui elaborated how he reached his decision, and how he made it clear that Cavalier would have been convicted even without the torture. We do not know how this argument was received, but at the very least it would have provided a rational justification for Cavalier's condemnation and arguments against allegations that he was convicted only because evidence was obtained by torture. This rational language may or may not have had an impact on all members of the audience but would probably have resonated at least with the educated élite. Taken together with Gui's desire to secure the involvement of the secular elite in the inquisitorial process, d'Ablis's similar practices in Carcassonne and the nature of the *culpa*, it seems likely that Gui was endeavouring to ensure that the basis for his *sententiæ* was understood and supported at least by the élite and if at all possible more widely.

³⁷ Ibid., p. 1178: Predicta vero confessus fuit in iudicio coram inquisitor et notario et religiosis testibus constitutes, non existens in questionibus seu tormentis, set ab ipsis tam loco quam ministris, quam etiam tempore post tres videlicet dies penitus elongatus, et in illis assidue perseverans, elapsis postmodum quinque septimanis, eadem sicut per notarium scripta fuerant et recepta [...].

³⁸ *Practica*, pp. 310-19.

³⁹ *Sententiæ*, p.1180: [...] monitus et requisites canonice et peremptory ut confiteretur [...] aut se defenderet vel purgaret in iudicio [...] confiteri noluit et se aliter purgare aut defendere recusavit.

⁴⁰ Ibid., p. 1182.

The *culpa* against the Beguins are further examples of where Gui carefully made the case against the accused. Like the Cavalier case these must have seemed high risk, because they could have been seen by all elements of the public as innocent victims of an over-mighty Church. Indeed the making of the Spiritual Franciscans into heretics arguably crossed a line in that their heresy lay simply in a question of obedience, rather than in a different doctrinal system (the Cathars) or a wholesale rejection of Church structures (the Waldensians). The *culpa* of Pierre de l'Hôpital and Pierre Guiraud contain a long, detailed exposition of their beliefs and their refusal to abjure.⁴¹ This must above all have been an attempt to persuade listeners of the reasonableness of the inquisition's decisions. On the other hand, some *culpa* are the bare bones of the evidence with no attempt to contextualise or elucidate the meaning of the evidence. An example is Johanninus Aymonis.⁴² The differences may lie in notarial practice; the notaries may simply have chosen to record more in more significant cases.

This dialogue on the basis of the rationality of the inquisition's decisions echoes Weber's view that of all the sacred law systems canon law was the most rational, quoted in Chapter I. This discourse might be thought of as in some way distant from the essence of Christianity, a mere exercise of social power through religion. But the careful weighing up of evidence against canon law and the enforcement of canon law was an intrinsic part of the Catholic Faith of Gui's time. David d'Avray has put this as follows:

‘A key assumption of the medieval Church [...] was that organisation and law, including the enforcement of law, were among the means by which Christ's sacrifice was translated into the salvation of individuals and society. Just as the organisation and law of the state were means of achieving human ends in this life, so too with the Church: its organisation and law were means of achieving salvation.’⁴³

The enforcement of the laws against heresy was a religious duty and would help further the Faith. To the extent that preaching would create an understanding of the rightness of penance and punishment it was helping further the business of Faith. The fact that more secular aims such as the maintenance of order were also served did not in any way detract from this but

⁴¹ Ibid., pp. 1610-34.

⁴² Ibid., p.1448.

⁴³ d'Avray, *Medieval Rationalities*, pp. 130-31.

rather complemented it. Karen Sullivan's remark that Gui's 'impersonal enforcement of the law is a conscious act, for the benefit of those watching him' expresses much the same idea.⁴⁴

What was the audience's actual reaction to the *sermo*? Claude Gauvard makes the crucial point that even the death penalty was acceptable to a medieval crowd provided that they accepted the guilt of the condemned and the crime merited the punishment.⁴⁵ Did Gui's *sermones* meet these conditions? At an overall level a case can be made for Gui being successful in at least securing his audience's acquiescence. As already noted, he had no public order problems (there were some conspiracies against him, but that does not in itself indicate widespread antipathy) and the authorities felt confident to let Gui deliver the *sententia* for Bernard Délicieux in 1317.⁴⁶ But there is little evidence for the actual reactions of the public to *sermones* and any judgment is necessarily broad-brush.

There is a last point to make about Gui's *sermones*. They were only part of what we now consider a trial, consisting only of the judgment and the sentence, but not the hearing of evidence. That hearing of evidence which is now largely in public in modern UK courts, was performed *in camera* within the inquisition. But also the cases which went to the *sermones* were a selected set that conformed to either a template of clear guilt, abjuration and significant punishment and/or penance; or a relaxation of penance in the light of good behaviour; or a refusal to abjure in the face of clear guilt, and the consequent release to the secular arm. Such cases were likely to conform to the image that the inquisition wished to project and which has been described above. But in practice the subjects of the system, the defendants, suspects or heretics, were far from homogeneous and many cases would have simply failed to meet the template in some way or other. In these cases the inquisitor had to find ways of dealing with difficult cases which did not offend public opinion but which preserved canon law and the authority of the inquisitor. The solution was to deal with such cases outside the *sermones* and Part 2 of the *Practica* contains a number of formulas for resolving outside the *sermones* those cases which for a variety of reasons did not conform to the template.

⁴⁴ Sullivan, *The inner lives of medieval inquisitors*, p.144.

⁴⁵ Claude Gauvard, *Violence et ordre public au Moyen Âge*, (Paris: Picard, 2005), p.74 : 'Car la foule, contrairement à ce qu'on pourrait analyser en tenant compte de ses réactions, n'est pas toujours hostile à la peine de mort. Son hostilité ne se manifeste que si l'exécution est appliquée indûment. En fait, elle ne s'oppose pas à la mort d'un criminel dont elle connaît l'état et le crime, à condition que cet état justifie le rejet et que le crime soit 'horrible.'

⁴⁶ Given, *Inquisition and Power*, p. 115; and *Sententiæ*, p. 1030.

One formula deals with the reconciliation of a member of the Greek Orthodox Church to the Catholic Church by abjuring the errors of the Greeks and accepting the authority of the Roman Church.⁴⁷ This must have taken place outside the *sermones*; there is no trace of any such case in the *Sententiae*. There is no way of knowing how often such a conversion took place, but it must have happened at least once. The case was unsuitable for a *sermo* because heresy in the strict sense was not involved.

Another formula shows a pragmatic way of dealing with an under 12 who has been caught in heretical activities performed under the influence of his or her parents.⁴⁸ No heavy penalty was imposed but the young person was required to carry out the usual Christian duties and a pilgrimage. This again was dealt with outside the *sermo* probably because dragging a child before the audience at a *sermo* would have damaged the inquisition's reputation and authority and evoked undue sympathy for the heretic.

Yet another formula deals with a case in which someone asserted that he himself was a heretic.⁴⁹ He seems not to have been believed and to have been punished for making false allegations rather than for being a heretic. One might speculate that the inquisitors took the action because the person concerned was clearly unbalanced, or because there was no evidence of contact with heretics or because representations were made on his behalf. It is not clear. But it is not unknown even nowadays for people to confess to crimes to gain attention. That may have been the case here, and the inquisitors pragmatically resolved the case in this way. Again the inquisitors did not consider this case suitable for a *sermo generalis*.

Some things had to remain outside the public gaze to preserve the secrecy of the inquisition's methods. One formula deals with giving a pardon to someone who was promised a pardon in return for giving information (this is also discussed in Chapter VI under methods of detection).⁵⁰ The inquisitors were delivering on a commitment. Similarly there is a formula imposing a monetary sentence on a Jew who had undertaken rejudaising work.⁵¹ Other Jews

⁴⁷ *Practica*, pp. 46-47.

⁴⁸ *Ibid.*, pp. 44-45.

⁴⁹ *Ibid.*, pp. 43-44.

⁵⁰ *Ibid.*, pp. 48-49.

⁵¹ *Ibid.*, pp. 49-50.

who appeared at a *sermo generalis* were given harsher penalties for similar crimes. There is no evidence why one or more cases were dealt with away from public attention by monetary penalties. One possible hypothesis might be that the inquisitors were under pressure to maximise revenue, for which there is some evidence in Chapter III. Another would be that the facts underlying the case were relatively trivial.

A last formula allows someone to leave prison before a *sermo* essentially as an exercise of mercy.⁵² Crosses were imposed on release but would be lifted at a future *sermo*. This was supposedly done for reasons of piety and through sympathy for a wife and children who were begging because they had lost their bread-winner. The background may have been some intervention by a well-placed individual; again there is no evidence.

These examples and others in the *Practica* gave inquisitors a toolbox to use in those cases which did not meet the theatrical requirements of the *sermo* or where a conviction would have been difficult to present as reasonable. It allowed them to be dealt with away from the public attention at a *sermo*. Gui's purpose in including them was probably to make inquisitors consider the possibilities open to them for resolving cases which would not have been suitable material for *sermones* and would have not fitted well with the rational and reasonable picture of inquisitorial justice which the *Sententiae* show. What cannot be known from the evidence is how frequently these formulas or similar ones were used. But, if they were used frequently, it can be said that the regular and homogeneous picture of inquisitorial justice that appears in the *Sententiae* was in part the result of the weeding out of unsuitable cases, an important part of their stage management. This would also reinforce a view of Gui's inquisition as pragmatic and relatively humane.

Eymerich's *Sermones*

Eymerich gives far more directions for the stage management of his *sermones* than Gui, which may indicate a greater sacralisation of the event and perhaps a greater symbolism. To judge from the surviving registers, Eymerich's *sermones* must have covered a considerable number of magicians and those, lay and clerical, who had formed often heterodox views of Christian

⁵² Ibid., p. 54.

doctrines, as well as a smaller number of Jews.⁵³ The heretics he was dealing with seem to have been more heterogeneous than Gui's (almost all of Gui's heretics were Cathars, Waldensians or Beguins) and perhaps enjoyed less support in the community than the Cathars, who were the majority of Gui's heretics.

Eymerich gives his stage management instructions for various categories of cases, the first of which is for those who are to abjure and are not *relapsi*, and who will therefore receive a sentence of imprisonment. The stage managing of this category of *sermo* began with the arrangements of its promulgation. The day had not to be a major holiday (e.g. Easter or Christmas) and all other activity (e.g. preaching by other mendicants) which might have competed with the *sermo* was closed down. In addition an inducement in the shape of an indulgence of 40 days was offered to those who attended. The event continued with the presentation of the 'person to be abjured and sentenced; abiurandus et sententiandus'. It was important that he or she should have been seen and that his or her reactions could be gauged.⁵⁴ In fact, although ostensibly the principal sentence in such cases was perpetual imprisonment, in practice ritual humiliation seems also to have been important. At the Inquisition's discretion the guilty party could be made to be exhibited outside the church where sentence was given so that they could clearly be seen by those coming in and out (*ut videri possis ab egredientibus et ingredientibus evidenter*) both immediately after the sentence and on multiple other occasions.⁵⁵ There is only evidence that this happened in Gui's time in two cases, both of false witness. First, Ponce Arnaud, who was the subject of a *sermo specialis* on the day before the *sermo generalis* on 23 April 1312 so that he could be exhibited by the church door on the day of the *sermo generalis* and on two subsequent Sundays.⁵⁶ He also carried red tongues, a punishment in the secular courts as well. Second, Jean de la Salvetat received much the same

⁵³ *Zur Vorgeschichte*, pp.162-82.

⁵⁴ *Directorium*, p. 326, BM, fol. CXLII: 'In the meantime the inquisitor will organise his *sermo* according to the issue of faith which is at issue at this time: he will organise with the bishop about drafting the culpæ to be recorded, forming the abjuration and sentence and the time and place and *placing a structure high up in the middle of the aforesaid church, in which the person to be abjured and sentenced can be placed so that he can be seen by all [...]*; Medio autem tempore inquisitor sermonem suum ordinabit, iuxta materiam fidei, de qua pro tunc est agendum: ordinabit etiam cum episcopo de culpis inscriptis redigendis, abiuratione formanda, et sententia, ac etiam de loco and sede, seu *bastimento ponendo in alto in ecclesia antedicta in medio, in quo possit poni abiurandus et sententiandus, ut ab omnibus videatur [...]*' (emphasis added).

⁵⁵ *Ibid.*, p. 330, fol.CXLII^v.

⁵⁶ *Sententiae*, pp.552-58.

treatment on 6 March 1316, before a *sermo generalis* the next day.⁵⁷ In the case of Arnaud, Gui makes clear that his punishment should be an example to others.⁵⁸ The fact that the *Sententiae* records this treatment, and that special arrangements had to be made, seem to indicate that the exposure of those found guilty was not a regular occurrence for those found guilty of heresy. If this is so, Eymerich used this form of ritual humiliation much more regularly than Gui.

As for the punishments, the commonly given sentence of life imprisonment with a diet of bread and water, if carried out to the letter, would be a sentence of slow death from deficiency disease. Eymerich gave the penitent clear reason to hope that his or her sentence might not in practice be too long, subject to convincing the inquisitors that the heretic was bearing the sentence patiently.⁵⁹ The possibility of release was also present in Gui, although he only hints at it by saying that the Church can vary the sentence.⁶⁰ However, the large numbers released from prison by Gui at each *sermo* must have sent a signal that release happened in many cases. In his time as inquisitor, to judge from the *Sententiae*, Gui released 139 prisoners from the Wall, and condemned 309 heretics to it, of whom 30 were condemned to the strict regime (leg irons and bread and water). In the early days the condemned outnumbered those released; by 1322 that trend had reversed. The *Sententiae* show that in 113 cases Gui both sentenced the heretic to the Wall and released him or her from it. There may have been others released between *sermones* (an example of a formula for doing so is given above) but there is no way of knowing how many. The mean time in imprisonment for those released at *sermones* was around 7 years, which is a considerable sentence. But clearly conditions in the Wall were not necessarily fatal.⁶¹

Eymerich gives recommended sermons of condemnation which Gui does not give in the *Practica*, although his actual *Sententiae* survive, which cover similar ground. Eymerich's

⁵⁷ Ibid., pp 854-64

⁵⁸ Ibid., p.554: '[...] so that Ponce's punishment should serve as an example to others [...]' ([...] ut ipsius Poncii pena ceteris transeat in exemplum [...]).

⁵⁹ *Directorium*, p. 330, BM, fol.CXLIIv: '[...] but son, it may not be serious for you, because I assure you that if you bear it patiently you will find mercy with us; may you not doubt or despair but firmly hope.' '[...] sed fili, non sit tibi grave, quia certifico te, quod si patienter toleres, misericordiam apud nos invenies; nec dubites, nec desperes, sed firmiter speres.'

⁶⁰ *Practica*, p. 103: 'But we retain for us and our successors in the office of inquisition the full power to increase, decrease, make more or less severe or even to remit the aforesaid penitence or punishment [...]: Retinemus autem nobis et nostris in inquisitionis officio successoribus plenariam potestatem addendi, diminuendi, agravandi, mitigandi, vel etiam remittendi in predicta penitentia vel pena [...].'

⁶¹ See statistics at *Sententiae*, p. 1646.

recommended words differed from Gui's in that they emphasised more the seriousness of heresy as a crime against the church and did not contain the same rational persuasive discourse, the same attempt to convince, as Gui.⁶²

There are other stage management recommendations in the *Directorium*. While the well-educated and compliant penitent could be trusted to deliver an appropriately penitent script, that was not the case for all, some of whom might have forgotten themselves and perhaps not given the replies the church wanted, not least because they were unwilling to undergo the required abasement or humiliation and explain their conduct 'on account of shame: propter verecundiam'. This would have led to reputational damage; 'the people would be outraged; populus scandalizaretur'. These may be the category of people who confess through 'fear of death: metu mortis'; but one cannot help but think that some might simply be overwhelmed by the proceedings.⁶³ In such cases the penitent will be simply asked to say yes or no to a series of propositions. Gui does not show similar concerns and he simply writes that those being sentenced abjure and swear an oath to obey the orders of the Church and inquisitors.⁶⁴

Eymerich gives significantly different stage management rules for heretics who were to be released to the secular arm. These rules tend to be shorter than for those who can be reconciled; there is far less to be done for those who are abandoned by the Church and will be surrendered to the secular arm. There are several variations to these procedures, the first concerning penitent *relapsi*, those willing to abjure but who under canon law cannot be saved from release to the secular arm. Eymerich is concerned with the sympathetic handling of this category of *relapsus*. He describes how the bad news can be sympathetically conveyed.⁶⁵ Some suitable men should be found to break the news who are upright and zealous for the faith (*zelatores fidei*) and acceptable to the suspect. They are told to break the news in a particular way; they should 'talk to him of contempt for the world, the miseries of the present life and the joys and glories of

⁶² *Directorium*, p. 329, BM, fol. CXLII^r: For example: 'Certainly, since it would be very unworthy to avenge offences against temporal masters and to tolerate with equanimity offences against the Lord of Heaven and Creator of all things, since it would be much more serious to injure eternal than temporal majesty [...]: Sane cum indignum valde existat dominorum temporalium iniurias ulcisci; Dominique cælorum et creatoris omnium iniurias æquanimiter tolerare, cum multo gravius sit eternam, quam temporalem lædere maiestatem [...].'

⁶³ *Ibid.*, p. 327, fol. CXLII^r.

⁶⁴ *Practica*, p. 85.

⁶⁵ *Directorium*, p. 331, BM, fol. CXLIII^r.

paradise: loquentur sibi de contemptu mundi, et miseriis vitæ præsentis, et gaudiis ac gloria
paradise' and then tell him:

[...] on behalf of the bishop and inquisitor that he cannot avoid mortal death and should
therefore be concerned for the salvation of his immortal soul [...]: [...] ex parte episcopi
et inquisitoris quod non potest evadere mortem temporalem; et ideo quod curet de salute
animæ suæ [...].

Gui on the other hand simply suggests that the inquisitor deliver the sentence one or two days
before the *sermo* to the person involved; Gui neither delegates the task nor gives any directions
about how the news is to be delivered.⁶⁶ Eymerich's method might be viewed in various ways.
The Henry Charles Lea way would be to read the section as hypocritical. The sentence is
morally repugnant; the two or three upright men a mere device for restraining/cajoling the poor
wretch; and the deputising of others to deliver the bad news moral cowardice of the highest
order. Equally one might see that the sentence is a matter of hard law; capital punishment is
commonplace; the church is probably handling the *relapsus* with sympathy, despite his having
committed a very serious offence, in contradistinction to the secular authorities; and the church
is doing its utmost to fulfil its central task of saving souls, the *salus animarum*, by supporting
the *relapsus*. There is perhaps truth in both these pictures, but the religious vocation of the
Dominicans which Christine Caldwell Ames has described must have played a major part. It
makes most sense in human terms if we see the inquisitors as accepting that punishment is
required but following their duty to help the sinner. But, what was charitable also made sense
in stage-management terms and in terms of the Church's image. A *relapsus* accepting of his
fate created a spectacle which confirmed the Church's position; a penitent *relapsus*, who did
not accept his fate, greatly increased the risk of the church being perceived as vindictive.

The staging of the sentencing for a penitent *relapsus* is less elaborate than in the case of the
penitent who is not *relapsus* and whose life can therefore be saved. Although indulgences are
still offered for those attending the *sermo* and some notice is given, there is not the same clamp-
down on other activity or the same degree of care in ensuring that people attend.⁶⁷ Most notably
the handing over of the *relapsus* to the secular arm takes place outside the church. Indeed

⁶⁶ *Practica*, p. 84.

⁶⁷ *Directorium*, p. 331, BM, fol.CX LIII^r.

Eymerich advises that everything including sentencing and the degradation of those in holy orders should take place outside church.⁶⁸ There is a fear that the church, and holy days, will in some way be polluted by an association with death. The outsideness of the heretic is emphasised. Gui makes no such recommendation. In Eymerich, whilst a penitent who will live is to be celebrated in a dramatic way those who will be condemned to death must be treated with far less ritual. Nevertheless, this category of condemned – inside the church ritually but outside on the basis of canon law because he is a *relapsus* – is treated intermediately between those whose lives can be saved by abjuring and those who are impenitent/relapsed heretics and are beyond help. If the convicted heretic is in holy orders, the necessary degradation requires an enhanced degree of ceremony. The bishop is in full episcopal dress and if the *relapsus* was in holy orders he must be rejected by all his brothers; the sacramental vows on entering the priesthood or holy orders must be undone and personal bonds broken.⁶⁹

There is a further significant variation in procedure for cases concerning confessed but not penitent heretics who are not *relapsi*, that is, those who ‘*animo pertinaci: with pertinacious spirit*’ hold to heretical beliefs but have been apprehended for the first time. What is striking here is that all efforts are made to secure that abjuration, up until the flames actually consume the heretic. In this desire to secure the abjuration of confessed but impenitent heretics, who are likely to be the stronger and more convincing heretics, Eymerich resembles Gui who advised making considerable efforts to turn Cathar *perfecti*.⁷⁰ They both also rely on the corrosive effect of prison to change views.⁷¹ It is again noticeable that Eymerich wants to project the availability of reconciliation until the last moment; again the contradistinction with the secular authorities is important. Nevertheless Eymerich’s attitude is ambiguous towards these efforts. He points to a case in Barcelona where an impenitent heretic condemned as such agrees to

⁶⁸ Ibid., p. 333, fol. CXLIII: ‘It is for consideration that such sentences to hand someone over to the secular arm should not customarily be on a feast day or a solemn day, nor in a church but outside in some street; because it is a sentence which leads to death; and it is more appropriate that it be done on a working day and outside the church, since feast days and the church are dedicated to the Lord.’ ‘*Considerandum etiam est, quod tales sententiæ tradendi aliquem curiæ seculari non consueverunt fieri die festivo, vel solemni, nec in ecclesia, sed extra in aliqua platea: quia sententia est, que ducit ad mortem: et honestius est, quod feratur in die feriali, et extra ecclesiam, cum dies festiva et ecclesia sint Domino dedicata.*’

⁶⁹ Ibid., p.332, fol. CXLIII^v.

⁷⁰ *Practica*, p. 239.

⁷¹ Ibid., p. 239: ‘The inquisitors are accustomed to detain such perfected heretics rather longer [...].’ ‘*Tales autem perfectos hereticos consueverunt inquisitores detinere diutius [...].*’

abjure at the stake when the fire is lit. But, as he relates, in the Barcelona case the penitent went on to infect many others before 14 years later being convicted of heresy and burnt.⁷²

The final procedure concerns an impenitent and relapsed heretic. This draws on much the same procedure as the previous methods, but the procedure is shortened. There is less seeking after an abjuration, although an attempt is still made. The victim will have the encouragement of upright men who are ‘zealous in the faith’ at his execution to encourage him to accept the sacraments. He is, however, left in no doubt as to his fate in somewhat harsher tones than the penitent *relapsus*, but he will have the benefit of the presence of the bishop and inquisitor, who will use their powers to convert him from his heresies by bringing forward the authorities of Holy Scripture, the determinations of the Church and by refuting the arguments of the relapse and undermining the bases of his error.⁷³ The reduced scale of the treatment of this category of heretic, who were wholly outside the Church’s ability to save corporeally and, probably, spiritually, symbolises their rejection or liminality as well as serving as a lesson for those watching.

Although Esther Cohen’s remarks noted above about criminal justice were made in a French context they would seem to apply just as much in Aragon. Eymerich’s arrangements, ostensibly even more than Gui’s, ‘enunciate, in a visual, dramatic way, extra-legal norms and beliefs’.⁷⁴ What is also striking is that, unlike Gui, Eymerich varies the ritual according to the seriousness of the cases. The more the heretic is removed from the Church by being impenitent or relapsus the more the extent of the ritual is attenuated. There is also apparently more use of public humiliation. It is not clear whether Eymerich’s *culpæ* would have used rationality as much as Gui’s to justify his decisions.

Destruction of Property

⁷² *Directorium*, p. 335, BM, fol. CXLV^r.

⁷³ *Ibid.*, p. 336, fol. CXLV^v: ‘[...] they may exercise their strength to converting the same from his heresies, now by bringing up the the authorities of holy scripture, now the conclusions of the Church, now by unpicking the reasoning of the relapse and by undermining the foundations of his error: [...] exerceant vires ad eundem a suis hæresibus convertendum, nunc inducendo auctoritates sacræ scripturæ, nunc determinationem Ecclesiæ, nunc solvendo relapsi rationes, et encruando sui erroris fundamenta.’

⁷⁴ Esther Cohen, p.75.

Not only heretics were destroyed but also their property, both the demolition of buildings and their subsequent use as rubbish-tips. These penalties were applied to property in which heretical acts, typically *hereticatio* or *consolamentum*, the ceremony whereby someone became a full or *perfectus* Cathar. Since this ceremony was usually carried out at a deathbed, the person hereticated was very often beyond the inquisition's reach. The sentences against the property were made regardless of whether the owner was a heretic. Gui handed down 22 sentences for the destruction of property, 12 of those in 1312.⁷⁵ The sentence specified that the houses were to be demolished and the material burnt or put to pious use. No rebuilding or fencing off was allowed on pain of excommunication and 'as the places were the receptacles of traitors, they should from now on be places of refuse in perpetuity: sicut fuerunt receptacula perfidorum, sic exnunc sordium perpetuo loca fiant.'⁷⁶ The significance of these penalties should not be underestimated. First, they would impoverish the owners, perhaps the children of those hereticated, sending a signal about the risks that heretication posed even when the heretic was long gone. Given the long history of Catharism in the Languedoc many would be potentially at risk, at least as long as witnesses lived. This would be an effective and collective means of social control; the destruction of property would serve as a reminder for many years. In a small community the impact could be great. Second, the means used to destroy property - burning and dereliction - used the same symbolism as the burning of *relapsi* and those who could not be reconciled to the Church; the property was outside the Catholic community.

The sentences were carried out with some vigour and endurance. A letter to Clement VI in 1343 showed that these demolished buildings in Carcassonne were still an eyesore and public health hazard. But the remedy at that time was to fence them off, a departure in itself the original sentence (assuming it was given in similar terms to Gui's); there presumably remained a feeling that the symbol of the wish on the part of church and state to destroy heresy was still required.⁷⁷ But by 1374 there was some relaxation and Gregory XI was prepared to allow some of this land to be used productively. There is a letter to Bernard Versavin, who had been in the pope's *familia* and was secretary to the Duke of Anjou, allowing him to put such land in the Languedoc back to productive use when he could acquire it. But Gregory does make it clear that this is exceptional and that otherwise he wants the condemnation 'otherwise to remain in

⁷⁵ Ibid., p.1646 and pp. 808-12.

⁷⁶ Ibid., p. 810.

⁷⁷ Vidal, *Bullaire*, pp. 295-96.

force: *alias in suo robore permanere*'.⁷⁸ He was only prepared to allow a trusted contact to re-use the assets in an economically productive way.

There is no evidence in the *Directorium* that Eymerich applied the penalty of demolishing houses and indeed he does not mention it. This may be because, as Eymerich comments, there were fewer rich heretics in his day, making the penalty less relevant.⁷⁹

Conclusions

The evidence seems to suggest that at his *sermones* Gui was trying to persuade his audience that his decisions were rational and well founded. His *culpa* can be read as attempts to justify decisions in a rational, and sometimes rhetorical, way. There is also evidence that cases that did not meet the classic heretical template were dealt with outside the formal *sermones*, which helped ensure that the *sermones* portrayed the Church in the best possible light. This transparency and rationality, combined with careful stage management, may well have been reinforced by his wish, or perhaps the necessity, to persuade a legally-trained élite of the correctness of his judgments on suspects and thereby to bind the secular powers into what the inquisition was doing, which was described in Chapter III. This overall approach may well have contributed to the success of Gui's work as inquisitor. It is worth remarking that Bernard Délicieux, when questioned about inquisitors appointed to clear up the difficulties caused by Nicholas d'Abbeville chose not to denounce Geoffroy d'Ablis, with whom Gui cooperated and whose methods he adopted.⁸⁰ Given Délicieux's opposition to the inquisition this almost represents praise.

There is more emphasis in Eymerich on the *sermo* as a religious ritual aimed at conveying the power and mercifulness of the church and the significance of heretical behaviour. He is also far more prescriptive than Gui on how *sermones* are to take place. Eymerich's precise gradation of the treatment of the various categories of those guilty of heresy – penitent/non-penitent, *relapsus/non-relapsus* - seems to indicate that Eymerich was endeavouring to

⁷⁸ *Ibid.*, pp. 403-05.

⁷⁹ *Directorium*, p. p. 389, fol. CLXVIr.

⁸⁰ *Processus Bernardi Delitiosi: The Trial of Fr Bernard Délicieux*, ed. by Alan Friedlander, (Leiden: Brill, 2000), p. 191: 'He even said that he was not acting against them then (ie Geoffroy d'Ablis and others); Dixit etiam quod contra eos (ie Geoffroy d'Ablis and others) non agebatur tunc [...].'

convey more meaning through ritual than Gui. Similarly Eymerich exhibited heretics to the public, presumably to shame them; Gui seems only to have done this when the offence was purely criminal (i.e. bearing false witness). But although the available evidence indicates that Eymerich envisaged a *sermo* that worked more through ritual and less through rational argument than Gui's, given the relative paucity of sources, no final judgment can be made on how great a difference there was in reality between the two inquisitors' practices.

Chapter V: Changes in Thinking on Inquisition and Heresy

The last two chapters have dealt with change in the outward-facing aspects of the inquisition in the 14th century, but change is perhaps more detectable within its structures. This chapter deals with changes that took place in how the purpose and jurisdiction of the inquisition were understood by inquisitors and the Church; the next chapter, Chapter VI, deals with changes in the inquisition's relationship with suspects and how the process of inquisition was conducted. The two sets of issues are closely related. Changes in inquisitors' thinking on the role of the inquisition influenced how they perceived suspects; and inquisitors' perceptions of suspects impacted on their thinking about inquisition. These interactions are discussed at the end of Chapter VI. These changes in the understanding of inquisition can be seen through a comparison of Eymerich's thinking with Gui's and, to a lesser extent, Ugolini's and with that in *De officio*. They were related to wider developments, in particular changing views on the nature and threat of magic. Indeed the *Directorium* played a role in the theological/legal changes which helped underpin the later witch persecutions in the 15th century and beyond.

Eymerich conceived of an inquisition which was in some ways different from Gui's (although perhaps less so from that in Ugolini and *De officio*) but the immediate practical realisation of his thinking was patchy, not least because of his expulsion from Aragon. He can perhaps best be characterised as trying to codify for inquisitors 14th century changes in heresy and the inquisition, as well as giving the inquisition a permanent and fixed role within the Church. In doing this he did not simply reflect change which had already occurred but played a more active role in crystallising, for the purposes of the inquisition, changes which had not yet fully occurred. He would have seen himself as reflecting the best thinking of his time on heresy and inquisition by drawing out the conclusions of earlier thinking on the pursuit of heresy in a coherent way. But that process led in itself led to change, in particular in the cases of magic and blasphemy.

Role of the Inquisitor

For the purpose of this chapter change is considered under a number of separate headings, including magic, blasphemy, the position of non-Christians, and 'intellectual' heresy (that is heresy by acknowledged thinkers, in particular in this context Raymond Lull). These different

topics can be seen as part of wider change in thinking on the role of inquisition; that is, on what the inquisition was for, its position in the Church, what its tasks were and what its jurisdiction should be. This wider issue is considered first. There is an imbalance in the sources here. Gui does not theorise at any length on the role of the inquisition or on the nature of heresy or heretics in general; his interest is in the beliefs of particular groups of heretics (Part 5 of the *Practica*), the powers of the inquisition (Part 4), and how the process of inquisition worked or should have worked (Parts 1-3). There is no equivalent in the *Practica*, *De officio* or the *Tractatus* of Eymerich's extensive theological discussion both of the inquisition's role and of the nature of heresy, which constitutes effectively the whole of Part 1 of the *Directorium* and two *quaestiones* in Part 2.

But the other works do offer some brief definitions of the inquisition's role. Gui gives an indication at the beginning of Part 4 of the *Practica*, of how he sees the role of the inquisition:

The office of inquisition is ordered and provided against every heresy rising up against the Catholic and Apostolic Church and the faith of Lord Jesus Christ and for the promoting of the business of faith [...].¹

He then states the canon law underpinning this statement. It is all in all a rather brief statement, and, although a good deal of Part 4 is drawn from *Quoniam*, Gui chose to exclude a purple passage outlining the spiritual perils of modern times, and putting the inquisition in a wider context, which begins that document.² Indeed having set down the role of the inquisition, Gui paints that role as deriving simply from canon law, implying that the inquisition was essentially a tool of papal policy, a means to an end established by successive popes. At another point in Part 4 he states that:

[...] the end of the office of inquisition is that heresy should be destroyed, which cannot be destroyed unless heretics are destroyed: Finis [...] officii inquisitionis est, ut heresis destruat, que destrui non potest nisi heretici destruantur [...].³

¹ *Practica*, p. 173: 'Inquisitionis officium ordinatum extitit et provisum contra omnem heresim extollentem se adversus catholicam et apostolicam Ecclesiam et fidem Domini Jhesu Christi, et ad promovendum ejusdem fidei negocium [...]'.

² BNF, Doat XXXVI, fol. 2^r.

³ *Practica*, p. 217.

Gui talks here of an *officium inquisitionis*, that is a function rather than an institution, or perhaps a legal mechanism for delivering particular ends. This is classically the way in which 13th century inquisitors saw the inquisition, as Richard Kieckhefer demonstrated in his 1995 *Journal of Ecclesiastical History* article.⁴ Nor is there any sense here or elsewhere in the *Practica* that these aims are not achievable. These two quotations suggest that Gui's inquisition had not become an institution, but there is other evidence on this subject, which is brought together in Chapter VII.

Unlike the *Practica*, *De officio* does define heresy. Heresy consists of beliefs contrary to everything in Holy Scripture and to those things which are pertinent to Holy Scripture according to the 'explanation and teaching of the Church; expositionem et doctrinam ecclesie'. Heretics are 'those who give rise to or follow new and false opinions' (Augustine's definition).⁵ The work is also concerned about what defences may be possible against a charge of heresy; ignorance is a poor excuse, since Christians should know the articles of the Faith.⁶ The anonymous author's approach to defining heresy and heretics is legal rather than theological.

Ugolini's *Tractatus* gives a concise description, again based on Scripture and Augustine, of what constitutes a generic heretic, that is someone: who teaches something contrary to the Faith; or who gives rise to an opinion contrary to the Faith; or who makes errors in the exposition of scripture; or who transgresses and despises the precepts of the Church; or who perverts the sacraments or is a simoniac; or who doubts the Catholic Faith.⁷ Ugolini does give a short list of past heresies and points out that the number of sects is infinite, although the point is made briefly.⁸

Eymerich goes into more detail than any of his three predecessors in defining heretics and heresy. The first part of the *Directorium*, 'De fide: On the Catholic Faith', covers a category of material absent from Gui, *De officio*, and Ugolini: the theological justification for suppressing heresy by the inquisition. Much of this part is taken up with an exposition of 13th-14th century

⁴ Kieckhefer, 'The Office of Inquisition and Medieval Heresy: the Transition from Personal to Institutional Jurisdiction'.

⁵ *De officio inquisitionis*, p. 39.

⁶ *Ibid.*, p.42.

⁷ *Tractatus*, pp. 7-9.

⁸ *Ibid.*, p. 9.

canon law, consisting of sections from Lateran IV, Augustine, Gratian, Justinian and Boniface VIII and others. These are aimed at establishing a set of propositions setting out a coherent view of faith and heresy. The starting point is the first two chapters of Lateran IV (the statement of the Christian Faith and the condemnation of Joachim di Fiore) and a defence of Trinitarian doctrine at the Council of Lyon in 1274 (taken from the *Sextus*) and at the Council of Vienne (1312) (taken from the Clementines).⁹ Peña's edition then includes St Thomas Aquinas' commentary on them, but this is absent from the Majorca manuscript.¹⁰ Peña's later addition (which it seems to be) is helpful because Eymerich's arguments draw heavily on Aquinas. Eymerich did not include this material probably because it did not occur to him to go beyond including canon law and the accepted interpretation of it. The addition of Aquinas is only marked in the printed addition by the use of a slightly smaller typeface. Both the manuscript and the printed edition then include the standard glosses on the three primary texts. Peña has filled out these glosses to include some linking material, but made no substantive changes. Extracts from the Justinian Code, *Unam Sanctam*, canon law on baptism, the creeds, Augustine and Gratian follow and are much the same in both manuscript and printed version, apart from Peña's rather more explicit titling.¹¹

These various authorities underpin a series of *quaestiones* at the end of this part, which establish Eymerich's view of the faith and thereby the necessity for the inquisition. In this Eymerich draws on Aquinas for his thinking, in particular *Quaestio XXXII* of the First Part of the *Summa Theologica* and the first three *quaestiones* of the *Secunda secundae*.¹² One *quaestio* in Part 2 of the *Directorium* (Part 2 *Quaestio* 32) sums up this thinking by defining who may truly and properly be called a heretic and what a heretic is.¹³ This thinking on heretics and heresy had in fact been developed by Eymerich earlier and more fully in 1359 in *De iurisdictione inquisitorum in et contra christianos demones invocantes*, which is only available in manuscript.¹⁴

⁹ *Directorium*, pp. 3-5, BM, fols I^v - II^r; *CIC*, vol. 2, cols 5-7.

¹⁰ *Ibid.*, pp. 6-14.

¹¹ *Ibid.*, pp. 15-45, BM, fols VI^v - XV^r.

¹² Aquinas, *Summa Theologica*, 1.22, and 2.2. 1-3.

¹³ *Directorium*, pp. 227-28, BM, fols XCV^r-XCV^v.

¹⁴ BNF, MS LAT 1464, fols 100^r-161^r; and Palma de Mallorca, Biblioteca Bartomeu March, MS104-II-7, fols 248^r-300^r, *Contra christianos demones invocantes*.

This Part of the *Directorium* raises the questions whether Eymerich's definition of heresy merely reflects Aquinas' thinking, and how far it differs from a classic Augustinian view of heresy or from a view of heresy that might be derived from Gui's work. Eymerich starts in Part 1 by saying that all articles of faith must be held and explained equally by religious people (simple people, the *simplices*, are exempt, because they depend on those who are better educated).¹⁵ The key parts of the Church's theology on Christ and the Trinity should also be believed explicitly.¹⁶ Other articles of faith must be believed implicitly. This follows from the (canon legal) *Glossa ordinaria* interpretation of the words 'Firmiter credemus', the opening words of the first article of Lateran IV, which are:

'[...] oportet omnes alios articulos credere implicite, hoc est credere, verum esse quidquid credit ecclesia catholica; all other articles should be believed implicitly, that is that whatever the Catholic Church believes should be believed to be true'.¹⁷

Eymerich apparently accepts the distinction, referred to in the *Glossa Ordinaria* and also made by Aquinas, between those articles of faith which must be explicitly believed (such as the teaching on the Trinity) and those, such as Old Testament stories, about which heterodox opinion can be held without risk of heresy, unless and until it has been determined that such a belief is contrary to Faith.¹⁸ Nevertheless he argues in the *Directorium* that all parts of Holy Scripture should be believed since, if any part is considered false, all Scripture will be considered false.¹⁹ Therefore, in certain cases, a confession of faith in any part of the Church's beliefs is essential to salvation.²⁰ Then, in the final *quæstio*, by far the longest, he shows the relevance of this thinking to an inquisitor. All are required to believe in Christ's humanity and the Trinity. Individuals are not expected necessarily to believe other parts of the Christian faith explicitly but, when informed by an inquisitor that they should be believed, they must do so or

¹⁵ *Directorium*, pp. 46-47, BM, fol. XVI^r, Q. IIII. Here Eymerich draws on an analogy from the pseudo-Dionysius that superior angels depend on inferior.

¹⁶ *Ibid.*, pp. 47-48, fols XVI^r - XVI^v, Qs V & VI.

¹⁷ *Ibid.*, p. 19, fol. VIII^r.

¹⁸ Aquinas, *Summa Theologica*, 1.32.4: About this sort of things therefore, someone can therefore give false opinions without risk of heresy before it is considered or determined that out of that follows something contrary to Faith [...]; Circa huiusmodi ergo absque periculo haeresis aliquis falsum potest opinari, antequam consideretur, vel determinatum sit, quod ex hoc sequitur aliquid contrarium fidei [...].

¹⁹ *Directorium*, pp. 48-49, BM, fols XVI^v-XVII^r, Q. VII.

²⁰ *Ibid.*, pp. 49-50, fol. XVII^r, Q. IX.

be considered a pertinacious heretic. In short, while accepting the view that it is not necessary to believe all Scripture explicitly, Eymerich allows an inquisitor the latitude to require explicit belief in every part of Scripture.

It might be argued that Eymerich is simply realising the *Glossa ordinaria's* and Aquinas' position in a clear judicial context. But that in itself changes things. The *Glossa* and Aquinas in practice left some space for debate or differences of opinion about those things which were not essential to the Faith or not yet determined unless and until, presumably after some discussion, a determination was made. Eymerich, on the other hand, makes the denying of any part of Scripture, however trivial, potentially heretical and the concern of the inquisition, if the individual persists in that belief. The logic is that doubt on any aspect of the Faith makes it vulnerable, which might nowadays be called 'zero tolerance'. Furthermore the initial determination of the faith has slipped from being a matter for theologians to discuss to being a matter for inquisitors to resolve in individual cases, albeit those inquisitors would have the services of theologians amongst the *iurisperiti* who confirmed their decisions. There is in this description of the inquisitor's role a substantially more comprehensive jurisdiction than Gui envisaged. His heretics belonged to a number of discrete pathologies. As shown in Chapter II, in an example where Eymerich amends Gui's words, Eymerich was aware that he differed from Gui in seeing the possibility of heresy being an individual rather than a group phenomenon.²¹ Although there is more similarity between Ugolini's position and Eymerich's, Ugolini's definition does not envisage in the terms that Eymerich sets out that every jot and tittle of Scripture should be held inviolable.²²

Eymerich probably also goes further than Augustine. The classic Augustinian definition of heresy, which Eymerich quotes and which is used by Gratian, is that heretics are those who persist, even after they are corrected, in defending dogmas which are 'pestiferous and deadly'.²³ Augustine proposed this definition in *The City of God* and probably had in mind the Manichean sect of which he had been a member or the Donatists against whom he struggled as Bishop of Hippo. These movements involved theological differences from Catholicism which were of

²¹ See p. 57 above.

²² *Tractatus*, pp. 7-9.

²³ *Directorium*, p. 55, BM, fol. XIX^v; *CIC*, 1, col. 998: Qui in Ecclesia Christi aliquid morbidum pravumque quid sapiunt, si correcti ut sanum rectumque sapiant, resistunt contumaciter, suaque pestifera et mortifera dogmata emendare nolunt, sed defendere persistunt, heretici sunt.

huge practical significance. It must be doubtful whether Augustine envisaged these words being applied to an unimportant piece of Scripture. Indeed the words ‘morbidum pravumque: morbid and depraved’, which qualify heretical belief, imply more than a disagreement on a minor matter. The Eymerician defence would be that any belief which contradicted any determination of the Church or any part of Scripture was indeed ‘*morbidum pravumque*’, because it throws the whole edifice of belief into doubt. But the impression remains that Eymerich takes a more rigorous position on heresy than his inquisitorial predecessors and Aquinas and Augustine.

However, there is one exception to this picture. Guido Terreni does take a rather similar view in his *Summa de hæresibus*, in which he says:

Opinio etenim illa est heretica quæ expresse et evidenter scripturæ sacræ adversatur, sic quod est contra expressum textum novi vel veteris testamenti [...]: Indeed that opinion is heretical which expressly and clearly is opposed to Holy Scripture, because it is against the express text of the New or Old Testament’.²⁴

Terreni was the closest in time to Eymerich, so it may be that Eymerich drew his thinking from him. We know from the *Directorium* that Eymerich saw his advice to John XXII on magic and he may well have had access to his other works at Avignon.²⁵

Claudia Heimann has noted that the definition of a heretic in *Quaestio* 32 of Part 2 of the *Directorium*, although clearly drawing on *Contra christianos demones invocantes*, differs in one significant respect from that work.²⁶ At the end of a definition of heresy in *Contra christianos demones invocantes* Eymerich, drawing on Aquinas, points out that heretics must have received the faith of Christ and that: ‘Qui enim fidem aliquando non recepit, hereticus existere nequit [...]: For who has not received the faith [of Christ] cannot be a heretic [...].’²⁷

²⁴ Guido Terreni, *Summa de hæresibus et earum confutationibus*, (Parisiis, Prelum Ascensianum, 1528.), fol. III^v.

²⁵ *Directorium*, p. 237, BM, fol. C^r:

²⁶ Claudia Heimann, ‘Quis proprie est hereticus?’ in *The Dominicans and the Medieval Inquisition. Acts of the 1st International Seminar on the Dominicans and the Inquisition*, *Dissertationes Historicae* 29 (Rome: Dominican Historical Institute, 2004), pp. 603-05.

²⁷ Aquinas, *Summa Theologica*, 2.2.24.1 and 2.2.3.5; and BM, *Contra christianos demones invocantes*, fol. 252^r.

These words and the whole thought are absent from the *Directorium* and Heimann's contention is that this is to allow non-Christians to be considered heretics, a point which is considered below.

Gui presents heresies as a discrete set of identifiable and dangerous pathologies, which are described in Part 5 of the *Practica*, which it was the inquisitor's role to eliminate and which were potentially finite. Ugolini and *De officio* defined heresy and heretics generically but in a precise and legal way. Eymerich, on the other hand, while sharing the legal thinking on heresy, adds a theological dimension. He sees the Church as under continuous attack. It is therefore the role of the judge – an inquisitor or bishop – to defend its doctrinal boundaries by declaring any activity outside the Church's teaching as heretical. Eymerich does give a long list of heresies, some described in useful detail, but these defined heresies are not the full list: 'There are also other heresies without authors and without names [...]', as Eymerich concludes at the end of a long list of heresies and their authors.²⁸

This view of a church being tested by heresy at every point is reinforced by the eschatological language in Eymerich's own introduction to the *Directorium*, where he talks of heresy as being introduced by Satan into the Lord's vineyard and being part of a wider struggle against the devil and demons.²⁹ This concept of struggle is not original in Eymerich; Aquinas, for example, talked in much the same terms when discussing the role of the Dominican Order.³⁰ But it is not present in Gui's or Ugolini's text or that of the anonymous author of *De officio*. *Quoniam*, however, does talk of the 'doctrines of demons: doctrinis demoniorum' in a fairly purple passage about spiritual dangers of modern times, which, as noted above, Gui chose to omit from the *Practica*.³¹ The tone of this passage in *Quoniam* is that the difficulties are recent and time-limited. Similarly Gui was dealing with (mostly) temporary heretical phenomena which could and, in the case of the Cathars, did disappear. His view of heresy as a series of distinct pathologies reflected the reality he saw. By contrast, Eymerich's concept of heresy is

²⁸ *Directorium*, p. 181, BM, fol. LXXr: 'Sunt et aliæ hereses sine auctore, et sine nominibus [...]'.

²⁹ *Ibid.*, p. 1, fol. F: The tortuous serpent, the evil enemy of the human race, exhaling poison; who is Satan and the Devil; he infects the vines in the Lord's vineyard by introducing into the fruit the poison of heresy [...]; Serpensque tortuosus, nostri improbus humani generis inimicus, efflans virus; qui est satanas et diabolus; eiusdem vineæ dominicæ palmites inficiat, in fructus virus pravitatis hæreticæ immittendo [...].

³⁰ Aquinas, *Summa Theologica*, 2.2.188.4.

³¹ BNF, Doat XXXVI, fol. 2r.

that, as a work of evil promoted by the Devil, it is inherently an eternal, not a time-limited phenomenon.

Jaume de Puig i Oliver has come to a similar conclusion about Eymerich, that he is developing a concept of an eternal inquisition, on the basis of two sentences in another Eymerician text, which occurs in the *Incantatio Studii Ilerdensis*:

Sic quomodo pateret gloria inquisitorum, nisi adesset malitia hereticorum? Multiplicatio igitur heresum manifestatio est doctorum fidelium: Thus, how could the glory of inquisitors be revealed unless the evil of heretics is present? The multiplication of heresies is therefore a manifestation of the learned faithful.³²

Puig i Oliver sees this as opening a road towards justifying the inquisition ‘in æternum’, because without inquisitors heresy would always reproduce. This passage also confirms an active role for the inquisitor as someone who searches out new forms of heresy, which in turn led to the Lull affair.³³

The sort of eschatological language used by Eymerich is common-place elsewhere outside inquisitorial manuals. It was there at the start of the inquisition, for example in a letter from Gregory IX to the Dominicans in the Languedoc in 1238 when they were first being charged with their mission against heresy.³⁴ The novelty in Eymerich is that he uses this language in an inquisitorial manual to justify an eternal inquisition.

To conclude, Eymerich’s definition of heresy as simply *any* deviation from the Faith as defined by the Church or Scripture is not found in the *Practica*. Similar concepts do appear in Ugolini’s *Tractatus* and *De officio*, albeit they are less rigorous in tone, and those works do not present heresy as an eternal threat as it is presented in Part 1 of the *Directorium*. Terreni’s definition of heresy in *Summa de hæresibus* is similar and may have been Eymerich’s starting point. Eymerich was, however, certainly the first to put forward this all-encompassing and rigorous

³² Jaume de Puig i Oliver, ‘La “Incantatio Studii Ilerdensis” de Nicolau Eimeric’ in *Arxiu de Textos Catalans Antics*, 15 (1996), p. 46.

³³ Puig i Oliver, ‘Nicholas Eymerich – Inquisidor discutido’, pp. 548-49.

³⁴ Mansi, XXIII, col. 74.

definition in an inquisitor's manual, allied to an understanding of heresy as a direct attack by demons.

Blasphemy

The position Eymerich takes on blasphemy also goes further than his predecessors. Blasphemy here is used in the sense of statements insulting to God and religion but without heretical or theological intent. Both heretics and non-Christians like Jews were accused of 'blasphemy' because they held views contrary to the Christian faith and intended to demean the Christian Faith, but these cases raise different questions which are considered later in this chapter. For Gui and Ugolini the form of blasphemy discussed here was at most a sign of underlying heresy to be investigated further, but not heresy in itself. Nor did canon law suggest that blasphemy should be treated as heresy, although the canon law *Glossa ordinaria* on the decretals did suggest that blasphemy, which damages eternal majesty, was worse than any insult to temporal majesty.³⁵

De officio specifically argues that heretical (not simply blasphemous) statements made '[...] out of anger, jest and emotion, and without deliberation [...]; [...] ex ira, ioco et turbatione, et sine deliberatione [...]' are not to be lightly excused, and points out that, even when following investigation it is found that the words were really said without deliberation, '[...] some say that the inquisitor can and should punish him (the offender) [...]; [...] dicunt quidam quod inquisitor potest eum punire, et debet [...].'³⁶ It is ambiguous whether the author thought such statements were even within the inquisition's jurisdiction but it is clear that he was inclined to treat blasphemers harshly, whether or not through the inquisition.

Notwithstanding any questions about whether it was heretical, blasphemy was by the 14th century universally considered a heinous crime. That had not always been the case; as Corinne Leveleux points out, canon law took little notice of blasphemy until the 13th century when Gregory IX made it a canon law crime with his decretal *Statuimus*.³⁷ In the same century

³⁵ *CIC*, 2, cols 826-27 ; and *Corpus juris canonici emendatum et notis illustratum*, 4 vols (Rome: In aedibus Populi Romani, 1582), II, col. 1765, '*Glossa ordinaria*'.

³⁶ *De officio*, pp. 44-45.

³⁷ Corinne Leveleux., *La Parole Interdite: le Blasphème dans la France médiéval (XIIIe – XIVE siècles); du péché au crime* (Paris: De Boccard, 2001), pp. 78-79: *CIC*, 2, cols 826-27.

Aquinas devoted a *quæstio* of the *Summa Theologica* to blasphemy, in which he considered how bad a sin it was.³⁸ On some reckonings it was worse than murder, but not heretical in itself. It was a ‘derogation’ from divine goodness, which is the essence of God.³⁹ Blasphemy was also a *crimen mixti fori*, i.e. a crime which came under the jurisdiction of both the secular and canon law. There is a useful discussion of how the secular and canonical jurisdictions worked together in Helmholz’s *The Spirit of Classical Canon Law*.⁴⁰ The two jurisdictions in effect co-existed, although of course the canon law jurisdiction was the only one applicable to clergy.

Eymerich goes further than Aquinas by bringing the act of blasphemy within the orbit of heresy by the following logic. Cursing God or the Mother of God was not in itself heretical and was mere blasphemy, outside the inquisition’s jurisdiction. But saying that God could not bring good weather, or that the Blessed Virgin was a whore, was heretical, and within the inquisition’s jurisdiction, because the statements denied essential articles of faith (God’s omnipotence and the Virgin Birth respectively). These are examples used by Eymerich to define heretical blasphemy.⁴¹ Once this heretical fact has been established the suspect, and if the blasphemy was frequent, the suspect would be treated as ‘vehementer suspectus: vehemently suspect’; if the blasphemy was infrequent as a ‘leviter suspectus; lightly suspect’. As a *vehementer suspectus* an individual would be required to abjure, even if he did not confess to heresy, and, if he relapsed, would be released to the secular arm.⁴² A *leviter suspectus* would also be required to abjure but would not be liable to release to the secular arm on a first relapse.⁴³ Effectively in both cases the suspect was treated as a heretic. This was not wholly novel. Of course earlier inquisitors could have seen blasphemy as an ‘indicium: piece of evidence’ of heresy, and would have been interested in whether any real heretical belief lay behind it. Eymerich considered any heretical blasphemous statement a matter for the inquisition, regardless of underlying intent and belief.

³⁸ Aquinas, *Summa Theologica*, 2.2.13.

³⁹ *Ibid.*, 2.2.13.1: ‘I reply that the word blasphemy seems to denote the disparagement of some surpassing goodness, especially that of God: Respondeo dicendum quod nomen blasphemiae importare videtur quandam derogationem alicuius excellentis bonitatis, et praecipue divinae.’

⁴⁰ Richard Helmholz, *The Spirit of Classical Canon Law* (London: The University of Georgia Press, 2010), pp.272-75.

⁴¹ *Directorium*, pp. 232 – 33, BM, fols XCVII^v-XCVIII^r.

⁴² *Ibid.*, p. 317, fol. CXXXVII^r.

⁴³ *Ibid.*, p. 315, fol. CXXXVI^r.

Around a half of the *quaestio* is concerned with the arguments for mitigating the treatment of blasphemers, which Eymerich dismisses. The first is that the blasphemy was induced by distress and fury; but these do not excuse (e.g.) someone adoring a demon or Mahomet.⁴⁴ Why should a blasphemy, uttered over the trivial loss of a coin, be considered less serious than adoring Mahomet, an act which may have been induced by fear but which is still not considered excusable? As for drunkenness people should be aware of the effects of drink and refrain from drinking if under the influence they commit blasphemy. In this Eymerich is more severe than Ugolini who, drawing largely on Gratian, states that those who are drunk are not ‘of sane mind: sanæ mentis’ and in reality think differently from what they say. They can however be punished for their drinking.⁴⁵ Eymerich downplays the necessity for intent, whilst Ugolini sees the necessity for it.

The inquisitor who comes nearest to Eymerich’s view on intent is the anonymous author of *De officio*, which specifically argues that heretical (not simply blasphemous) statements made ‘[...] out of anger, jest and emotion, and without deliberation [...]; [...] ex ira, ioco et turbatione, et sine deliberatione [...]’ are not to be lightly excused, and points out that, even when following investigation it is found that the words were really said without deliberation, ‘[...] some say that the inquisitor can and should punish him (the offender) [...]; [...] dicunt quidam quod inquisitor potest eum punire, et debet [...]’.⁴⁶ It is, however, ambiguous whether the author thought such statements were even within the inquisition’s jurisdiction, but it is clear that he was inclined to treat blasphemers harshly, whether or not through the inquisition.

Heretical blasphemy may have been a live issue in Eymerich’s time. Vidal’s *Bullaire* contains a letter from Urban V in 1366 reprimanding the inquisitor of Carcassonne for pursuing blasphemers who spoke ‘perhaps out of anger rather than from deliberate intention: forsā calore iracundie potius quam ex deliberato proposito’.⁴⁷ It is not clear whether their utterances were heretical rather than ‘simple’ blasphemy but the involvement of the inquisitor suggests that there was some heretical content. Urban’s concern is that the implication of heresy would be damaging and that the culprits should be punished in the usual way through bishops’ courts. Eymerich’s enthusiasm for using the inquisition may not have been shared

⁴⁴ Ibid., p. 233.

⁴⁵ *Tractatus*, p. 29.

⁴⁶ *De officio*, pp. 44-45.

⁴⁷ Vidal, *Bullaire*, p. 377.

by all in his time and 10 years before the *Directorium* was written the older view of blasphemy prevailed.

Why did Eymerich seek this extension of the inquisition's jurisdiction? One likely answer is that it was part of his aim that all the boundaries of the Faith should be secured by the inquisition. But at another level his thinking on blasphemy has parallels with his thinking on magic in that there is a move away from seeing heretical belief or intent as a necessary part of heresy. In blasphemy the logic of Eymerich's position is that heretical words can of themselves be sufficient to bring the suspect within the inquisition's jurisdiction, regardless of underlying belief or intent. Similarly in magic, as we discuss shortly, Eymerich takes the position that magic involved giving *latría* or *dulia* to demons, whether or not the suspect had any intent to do so.

Magic

It is not the role of this thesis to re-tell the narrative of magical practices in the 14th century and their relationship with law and inquisition. They have been the subject of a number of notable works by Alain Boureau, Norman Cohn, Edward Peters, Richard Kieckhefer and Michael Bailey.⁴⁸ Suffice it to say that the 14th century saw a growing interest in learned magic texts and also a growing criminalisation of magic in that the law was used more frequently against magicians. The intellectual foundations for the later witch persecutions were thereby established. The 14th century might be described as a century in which the consequences of the teaching of Aquinas and others that much of magic was in fact the work of demons were realised by a changing perception of the seriousness of magic practices and an accompanying change in how the law regarded them.⁴⁹ Changes in inquisitorial law and practice on magic

⁴⁸ Boureau, *Le Pape et les sorciers*, and *Satan the Heretic*; Norman Cohn, *Europe's Inner Demons* (Chicago: The University of Chicago Press, 1973); Edward Peters, *The Magician, the Witch and the Law* (Hemel Hempstead: The Harvester Press, 1978); Richard Kieckhefer, 'The Specific Rationality of Medieval Magic', *The American Historical Review*, 99 No. 3 (June 1994), 813-36; *European Witch Trials* (London: Routledge and Paul, 1976); and *Magic in the Middle Ages*, 2nd Edn. (Cambridge: Cambridge University Press, 2000); Michael Bailey, 'From Sorcery to Witchcraft: Clerical Conceptions of Magic in the Later Middle Ages', *Speculum* 76, 4 (2001), 960-90 (this is Bailey's work which is most relevant to the arguments here).

⁴⁹ *On Evil (De Malo)*, trans. by John Oesterle and Jean Oesterle (Notre Dame: University of Notre Dame Press, 1995) contains Aquinas' fullest expression on this issue. Peter Lombard, *Sentences*, 4.7.5 and Augustine, *De civitate dei*, Bk. 9, were Aquinas' most important

were a significant part of this process. How Gui, Ugolini and Eymerich understood inquisitorial law on magic and magicians; how this inquisitorial law changed in the 14th century; and in particular the significance of the Bull *Super illius specula*, and the part played by Eymerich in changing the law by drawing on that Bull, are issues that had a longer term impact.⁵⁰ The influence of 14th century inquisitorial thinking can, for example, easily be seen in the 15th century *Malleus maleficarum*.⁵¹ Changes in the law on magic were also closely linked with changes in the inquisitor's relationship with suspects, which are covered in Chapter VI.

One point should be stressed at the beginning. It is clear that most people in the 14th century believed in the reality and efficacy of magic and that charges of magical practice, which would be risible today, were not necessarily false. For example the evidence seems unequivocal that the Sire de Parthenay did procure and endeavour to use magic potions.⁵² It was also at least likely that Hugues Gérard did use magical practices against John XXII.⁵³ Charges of magical practice were therefore not necessarily an empty device for securing convictions, although there are wholly reasonable suspicions that may well have been the case with the Templars and particularly with Enguerrand de Marigny. Richard Kieckhefer sets out this view of magic in an article on the 'Specific Rationality of Medieval Magic'.⁵⁴

The basic canon law on heresy and magic was set in 1260 by Alexander IV in *Accusatus*, in response to demands for clarification from both Franciscans and Dominicans.⁵⁵ This provision remained unchanged throughout the remainder of the 13th and the 14th centuries and was the basis on which debate on which forms of magic should fall within the jurisdiction of the *inquisitio hereticæ pravitatis* took place. It provides that magic, defined as foretelling the future and casting spells (*divinationes et sortilegii*), was not within the inquisitors' jurisdiction unless

precursors. As noted here, the theologians whom John XXII commissioned to consider the relationship between magic and demons also made an important contribution.

⁵⁰ *Directorium*, pp. 239-40.

⁵¹ Kramer, Heinrich and Jacob Sprenger, *Malleus Maleficarum*, ed. and trans. by C. Mackay, 2 vols (Cambridge: Cambridge University Press, 2006), I, p. 153.

⁵² The details of this case are best covered in Jean-Marie Vidal, 'Le Sire de Parthenay et l'Inquisition', *Bulletin historique et philologique*, 1903, 414- 34.

⁵³ Edmond Albe, *Autour de Jean XXII : Hugues Gérard, évêque de Cahors: L'affaire des poisons et envoûtements en 1317* (Cahors: J. Girma, 1904).

⁵⁴ Kieckhefer, 'The Specific Rationality of Medieval Magic'.

⁵⁵ *CIC*, 2, Cols 1071-72 and Joseph Hansen, *Quellen und Untersuchungen zur Geschichte des Hexenwahns und der Hexenverfolgung im Mittelalter* (Bonn: Carl Georgi Universitas Buchdruckerei und Verlag, 1901), p. 67, 'Quellen'.

‘it manifestly smelled of heresy: nisi hæresim saperent manifeste’. It thereby gave a pragmatic test of what magic would be considered heresy by dividing magical practices into those with which the inquisition should concern itself and those which it should leave to other judges. It did not, however, say that magical practices that did *not* ‘manifestly smell’ of heresy were not heretical; only that the inquisitors should not concern themselves with such cases. Of course what ‘manifestly smelled’ of heresy could change over time depending on the beliefs of the inquisitors and others about what constituted heresy. This provision provided a mechanism whereby canon law could reflect changes in popular and learned attitudes without itself changing in form.

This state of affairs reflected the reality that thinking in the later Middle Ages on magic was not fixed; there was considerable debate about which practices were licit and which not. Magical, particularly divinatory, practices came to be seen as gaining their efficacy from a pact with demonic forces, when they were not obviously divinely inspired. This was the position which Aquinas took in the *Summa Theologica* and this may have increasingly eliminated tolerance for practices which hitherto had seemed innocent but which were seen in the 14th century to involve a demonic element.⁵⁶ Another reality, or at least perception, was that magical practices were widespread, and the church had to take that into account. In particular, Alexander IV’s clear motivation in *Accusatus* was that the inquisitors should not be distracted by magic cases from pursuing the classic 13th century heresies (Catharism and Waldensianism), unless the cases were clearly also heretical. The implication was that if inquisitors investigated magical practices they would have little time left for those heresies.

It was accepted at all times since *Accusatus* that some forms of magic were heretical and were definitely within the inquisition’s jurisdiction. These included what Eymerich refers to as *latria* and *dulia*, giving openly to demons that worship and reverence which belong to God and the saints respectively. That is done by sacrificing to them, adoring them, praising them and many other behaviours, of which the *Directorium* gives a list.⁵⁷ This devotion to demons is clearly a form of heresy for Christians in that it substitutes worship of demons for normal Christian worship. It was exactly the form of behaviour which was amongst the accusations made against the Templars and which brought them squarely within the inquisition’s jurisdiction.⁵⁸

⁵⁶ Aquinas, *Summa Theologica*, 2.2.45-46.

⁵⁷ *Directorium*, p. 235, BM, fols XCIX^r-XCIX^v.

⁵⁸ Malcolm Barber, *The Trial of the Templars* (Cambridge University Press, 1978), p.249.

Gui covers magic in the *Practica*. The best analysis of his thinking on magic is in an article by Michael Bailey in *Speculum*, in which he places Gui in the sequence of intellectual changes that led to the later witch persecutions.⁵⁹ He points out that Gui gives little attention to magic; that as far as we know Gui conducted no trials involving magic (there are none in the *Sententiae*); and that Gui had a knowledge, set out in the *Practica* of both elite and popular magical practices. He goes on to say that:

That Gui believed this magic to be demonic in nature is certain. He wrote explicitly of the invocation of demons at the beginning of his section on sorcery (although perhaps tellingly never again in the course of his questions), and beyond this the church had already established that, for sorcery to fall under the purview of inquisitors, it had to involve manifest heresy, which generally meant the involvement of demons.⁶⁰

Bailey is rightly pointing out that Gui, although he does not mention *Accusatus*, was aware that for magic to fall within the inquisition's jurisdiction it had to pass the test in *Accusatus*. But there are ambiguities in Gui's position. At no point does he say that all magic is necessarily heretical, and he would surely have surely defined all magic as heretical, had he believed it always to be so. Whilst Catharism and Waldensianism are from the beginning described as heresies, he refers to magic as '*pestis et error*' (a disease and an error).⁶¹ Although Gui accepts some magic as being heretical, he does not state where the line dividing heresy from simple sinful practice lies. He also hedges his bets in his form of abjuration by requiring the suspect of magical practices to abjure both heresy and error, which is not the case for Catharism and Waldensianism, where only heresy is abjured.⁶² Nor does he take a view on whether magic had to involve the open adoration of demons to be heretical or whether magic which exploited demons but without open adoration was also heretical. He talks of 'invokers of demons: *invocatores demonum*' but does not say whether he has in mind those who did so without open intent as well as those who did so openly.⁶³ Magic, of course, had to be covered in the *Practica*

⁵⁹ Bailey, 'From Sorcery to Witchcraft', pp. 967-71.

⁶⁰ *Ibid.*, pp. 969-70.

⁶¹ *Practica*, p. 237 (Catharism), p. 244 (Waldensianism) and p. 292 (magic).

⁶² *Ibid.*, p. 293 (generalised abjuration probably for Cathars), p. 296 (Waldensianism), p. 301 (magic).

⁶³ *Ibid.*, p. 292.

in the light of John XXII's letter of instruction to inquisitors to take more interest in magic cases.⁶⁴

Although Gui did not, as far as is known, prosecute any magicians, they were prosecuted in Toulouse in Gui's time in the Archbishop's court. Hansen has a record of clerics in Toulouse tried in 1326 before the Archbishop's court for magic, which did not involve the explicit invocation of demons.⁶⁵ Interestingly this case, whose result is not known, involved lead images, one of the examples of magic given by Gui.⁶⁶ It must be at least possible that Gui drew his knowledge from this case (the events which were the subject of the trial took place in 1323 and may have been known before the *Practica* was finished) and perhaps other magic cases before the Archbishop. To judge from the fact that this case went to an ordinary Church court, the implicit adoration of demons was not thought sufficient at that time to meet the *Accusatus* test and such cases were not for the inquisitors. This is not inconsistent with what Gui says in the *Practica*. Indeed most magic cases at this time did not go before the inquisitors, but rather to criminal courts either secular or canonical. Exceptions included the Sire de Parthenay discussed below and the Templars (the Templars' alleged adoration of demons was clearly heretical, if it took place). In the case of Hugues Géraud and Bernard Délicieux the choice of a canon law criminal trial was presumably also driven by the fact that part of the case against them was purely criminal (attempted murder and treason respectively).

It was Eymerich who changed inquisitorial thinking on magic but his thinking had roots in Gui's time. Unlike Gui, and in more detail than Ugolini, Eymerich addresses at length which magic fell within the definition of 'manifestly heretical' and which did not.⁶⁷ This question was first addressed by those theologians whom John XXII consulted in 1320, albeit they came up with differing answers (discussed further below).⁶⁸ These two considerations, which we can follow in some detail, give an insight on how the law changed within the *Accusatus* framework in the 14th century.

⁶⁴ Ibid., pp. 61-2.

⁶⁵ Quellen, pp. 447-49.

⁶⁶ *Practica*, p. 292.

⁶⁷ *Directorium*, pp.234 – 41, BM, fols XCVIII^v-CII^v.

⁶⁸ This is the subject of Boureau, *Le Pape et les sorciers*.

To follow the thinking on this issue, magicians should be divided into three categories. A first category of '*sortilegi et divinatores*' who openly offered *latria* or *dulia* to demons, were clearly heretics. There was a second category who were at all times outside the category of heresy; Eymerich's example is chiromancy or palmistry, where practitioners simply read signs which occur naturally and which can allow judgments about 'natural effects and the conditions of man'.⁶⁹

The third category of magic, where the power of demons is invoked to achieve an effect, or at least in the hope of achieving an effect, but it is not clear that in the process they are being offered *latria* or *dulia*, is the area for discussion here. Eymerich gives as an example a circle being drawn and a boy being placed within it.⁷⁰ In this case no *dulia* is obviously made. It is this category of magical activity which was central to change in heresy law in the 14th century and which is at the heart of differing views in John XXII's consultation discussed below.

It had become understood at the end of the 13th and beginning of the 14th century that most magic not inherently deriving from nature phenomena was in fact the work of demons and that divination and magical effects were achieved by making a pact with them, which was injurious to men's souls. This is set out clearly by Aquinas; the key word for our purposes here is the word '*tacit: tacita*'.⁷¹ By making it clear that the non-reverential use of demonic powers was not licit, this thinking raised the question whether the third category of magic did in fact constitute heresy in the same way the first category.

However, this was not necessarily a pressing question for the religious authorities in practical terms. Magic and magical acts were already unlawful under secular law or canon law. In cases like Hugues Géraud where there was a serious criminal issue beyond magical practices, the death sentence could be applied on the first occasion, unlike pure heresy charges where there was the possibility of doing penance on the first occasion if the suspect abjured. There seems to have been no problem prosecuting offenders outside the inquisition. Richard Kieckhefer has listed witch trials in the 14th and 15th centuries, which shows that in the 14th century the majority

⁶⁹ *Directorium*, p. 234, BM fol. XCVIII^v.

⁷⁰ *Ibid.*, p. 236, fol. XCIX^v.

⁷¹ Aquinas, *Summa Theologica*, 2.2.96.2: '[...] in no way is it lawful for man to make use of the demons' help by compacts either *tacit* or *explicit*; [...] nullo modo licet homini Daemonum auxilio uti per pacta *tacita* vel *expressa* (our emphasis).

of trials were secular or by ecclesiastical authorities acting on the same basis as a secular court against those subject only to canon law or those tried in papal territories.⁷² This of course assumes that the Languedoc cases written about by Lamothe-Langon were fictitious; Norman Cohn has set out strong grounds for believing that they were.⁷³ Interestingly one of John XXII's consultees, Johannes Wülfing, sets out the available canon law against magical practices as one of the reasons for not making more magical practices heretical.⁷⁴

But also a re-classification of the third category as heresy would have required an active stance by the Church towards the suppression of magical practices. At the very least, assuming the precedents set by the action to suppress other heresies were followed, inquisitors would have been expected, *inter alia*, to encourage informants, give periods of grace for offenders, seek abjuration from offenders and confiscate their property, in short to apply the full panoply of heresy law and practice. If magical practices were widespread, the application of heresy laws to magical practices in the third category would have been a huge enterprise, involving all classes; popular support, and therefore probably political support from the secular arm, might well not have been forthcoming. It was potentially a very difficult thing to do.

John XXII, a man who was able to carry on theological speculation without implementing the views he reached (classically over the Beatific Vision), seems to have considered bringing magical practices of the second category within the category of heresy and within the jurisdiction of heresy. Alain Boureau has explained how this happened in two books, one of which contains an edition of the relevant papal documents.⁷⁵ Nevertheless the sources available to us do not give a full picture of what happened. While we have sources showing the advice on theological issues which John had available, precisely how he used that advice and what other considerations he may have taken into account can only be inferred from his public acts.

It seems likely that John XXII was scared by the case of Hugues Géraud, Bishop of Cahors, in 1317 into looking further at how to control magical practices. Géraud had tried to poison John with both physical poison and spells involving the invocation of demons; the facts of the story

⁷² Kieckhefer, *European Witch Trials*, pp. 108-47.

⁷³ Cohn, *Europe's Inner Demons*, pp. 181-93.

⁷⁴ Boureau, *Le Pape et les sorciers*, pp. 10-12. Much of this law is at *CIC*, 1, cols. 1027-29.

⁷⁵ Boureau, *Le Pape et les sorciers*, and *Satan the Heretic*.

have been related by Edmond Albe.⁷⁶ Géraud was burnt following a trial at Avignon. The case may well have fallen within the category of heresy under the *Accusatus* test, but that is almost irrelevant because a plot to murder the pope would have been sufficient to command the death penalty, regardless of heresy. Indeed, had the case been considered as one of simple heresy, he would have been offered the opportunity to abjure.

John responded in at least two ways. First he instructed the inquisitors in Toulouse and Carcassonne in 1320 by letter to pursue invocers of demons.⁷⁷ The letter shows some careful drafting, and is far from being a simple instruction that the inquisitors should treat all invocers of demons as heretics. Rather it instructs them to make inquiries and ‘proceed against them *keeping to the methods* which have been fixed by canon law for you to proceed together with prelates in the matter of heresy’ (our emphasis).⁷⁸ Invoking demons is not categorised as necessarily heresy but, whatever the final conclusions, it must be investigated in the same way as heresy by the inquisition. It is implicit that some cases might not prove to be heresy but should nevertheless be investigated. This ambiguity over the heretical nature of magic may well have lain behind the wording of the *Practica* discussed above.

At around the same time John XXII launched his consultation with some leading theologians and canon lawyers about whether a number of actions, all of which fall into our third category and which include sacrificing to demons to achieve a certain end, were heretical. Although the first to analyse the documentation was Anneliese Maier, who described the documentation covering the inquisition’s jurisdiction over magic cases, Alain Boureau was the first to edit fully John’s consultation.⁷⁹ The results of the consultation were not unanimous and there was a body of opinion (in particular Augustin Kažotić and Jean Wülfing) that the Church should remain with its traditional teaching that

[...] heresy, an error in faith, was an intellectual and spiritual choice (airesis) and had no connection with (magical) practices. Bad practices could and should be severely

⁷⁶ Albe, *Autour de Jean XXII : Hugues Géraud, évêque de Cahors*.

⁷⁷ Vidal, *Bullaire*, pp. 61-62.

⁷⁸ *Ibid.*, pp. 61-62: ‘procedere contra ipsos, *modis tamen servatis* qui de procedendo cum prelati in facto heresis vobis a canonibus sunt prefixi.’

⁷⁹ Anneliese Maier, ‘Eine Verfügung Johannes XXII. über die Zuständigkeit der Inquisition für Zaubereiprozesse’, *Archivum Fratrum Prædicatorum*, XXII (1952), 226-46, and Alain Boureau, *Le Pape et les sorciers*.

controlled and sanctions made against them but they did not come from doctrinal error.⁸⁰

But there were powerful contrary arguments from Enrico del Carretto that anyone believing in an image or that the Devil could know the future is a heretic; and that the act of consecrating an image for magical purposes is heretical because, even if the person involved believes the power in the image to be natural, the act of consecration is reverence to the Devil.⁸¹ In this view he was supported by Jacques Fournier and, up to a point, by Guido Terreni, whose views are discussed below. Boureau concludes that, as a result of this consultation, the Bull, *Super illius specula*, which John XXII issued in 1326 made the third category of magic heretical.⁸² It is argued here that an alternative plausible interpretation is that, for good reasons, *Super illius specula* did not have precisely the effect Boureau suggests.

A clear distinction must be drawn between a theological understanding personally or privately held and what is the Church's doctrine and canon law, and between the consideration of doctrines behind closed doors and what are publicly declared law and doctrine. Of course law and doctrine, within certain limits, could be changed by a pope; but it required an act of will to do so. For example, in the case of the Beatific Vision, John XXII held a personal position different from the formal position of the Church and he made that view known. But the formal position of the Church was not changed by John's personal views because for a number of reasons he chose not to take that step. We have no conclusive evidence of John's personal views in the case of magical practices but the fact that he sought the views of experts on the heretical nature of magical practices makes it highly likely that his thoughts were inclining in the direction of making a larger proportion of magical practices, our third category, heretical.

There is evidence, however, that the Church did not formally cross the line by making third category magical acts heretical. A close reading of *Super illius specula* shows that at no point is every invocation of demons assimilated to heresy.⁸³ There is certainly a strongly rhetorical condemnation of magical practices which involve the invoking of demons. This is described as 'making a pact with Hell: pactum faciunt cum inferno'. There is a prohibition on teaching

⁸⁰ Boureau, *Le Pape et les sorciers*, p. VII (translated from French).

⁸¹ Ibid., p. 21 and p. 27.

⁸² Ibid., p. XLVIII.

⁸³ See Annex A for text.

and learning magical practices and using them; those who do not follow this must be struck with suitable penalties ('pœnis suis pro culpīs debitis percellantur'), although of course these penalties were already available through secular and canon law. They will also be excommunicated if they ignore this provision. A procedure is then set out; if after 8 days of hearing these provisions the hearers have not complied they should be proceeded against through their competent judges ('per suos competentes iudices') and 'each and every punishment which heretics deserve by law should be inflicted on them except for the confiscation of goods pending the outcome of the investigation'.⁸⁴ This formula is ambiguous; it can be read as saying that such people are heretics; or that they should be punished in the same way as heretics. There are two small and not wholly conclusive indications in the Bull itself that the latter interpretation should be preferred. First the reference to competent judges with no mention of the inquisitors, who are often seen as distinct from the usual church authorities and who would have taken on such cases if they were heresy in the areas in which they operated. Second there is a clear provision that goods should not be confiscated until the end of the proceedings, a departure from usual inquisitorial practice. It can be argued on this evidence that a different régime was contemplated for magical practices from that in force for heresy.

But there are two other wider reasons why the second interpretation might be preferred. First there was the trial and appeal to Avignon by the Sire de Parthenay, which seems to have happened before *Super illius Specula* was promulgated. He was a noble, described by William of Nangis' continuator as 'powerful'.⁸⁵ Indeed the fact that the Chronicle mentions the case at all indicates that it was significant at the time. Parthenay had tried to win the love of a woman through a magic potion but without explicit invocation of demons, an example of the third category of magic. The Aquitanian inquisitor, who might well have enjoyed the same encouragement from John XXII as his colleagues in Toulouse and Carcassonne to pursue magicians, although there is no direct evidence to that effect, had found him guilty and had confiscated his goods and was proceeding to sentence. His family, presumably desperate, succeeded in lodging an appeal to Avignon where the inquisitor's finding was reversed. Vidal's

⁸⁴*Directorium*, pp. 239-40: [...] ad infligendas pœnas omnes et singulas, præter bonorum confiscationem dumtaxat, quas de iure merentur hæretici, per suos competentes iudices procedatur.

⁸⁵ *Chronique latine de Guillaume de Nangis de 1113 à 1300, avec les continuations de cette chronique de 1300 à 1368*, ed. by H. Géraud (Elibron Classics, 2002), p. 50, 'Nangis'.

Bullaire shows involvement by the king to whom John reported developments. It is clear that the king was pressing John for the case to be resolved in Parthenay's favour.⁸⁶ Also as the continuator makes clear the confiscated goods, which under French procedure went to the king, were returned to him in full to conduct his appeal.⁸⁷ That cannot have gone down well with the king, if only because it must have involved some financial embarrassment for him. As for the proceedings at Avignon the legal arguments by Oldradus da Ponte representing Parthenay have survived.⁸⁸ His arguments were presumably accepted by the archbishop of Embrun hearing the case on behalf of John. Oldradus' argument is that Parthenay's actions simply did not 'manifestly smell of heresy' (the *Accusatus* formula) because using demons to secure a woman's affections, although 'to do this is may be morally wrong and demeaning and a mortal sin; hoc facere sit turpe et fedum et mortale peccatum', was not manifestly heresy. This was because Parthenay was *using* the demons, not *adoring* them. Oldradus was operating in an open system and the judgment based on his arguments would be well known, unlike the private advice of the theologians. Indeed given the prominence of the accused this must have had the effect of test case (test cases did not strictly exist in canon law), in which the more radical del Carretto position did not prevail. Whether John was consulted over the decision in this case is not known. But he chose the archbishop to hear the case and could have intervened to change the law afterwards if he disliked the verdict. He may well have been under further unrecorded informal pressure from the French king who, as already noted, is on record as seeking a resolution of the case and that would have been a powerful inhibiting factor. Whether John in fact liked the result personally is also not known, but, in the absence of any action to change it, it effectively represented canon law.

It seems likely that this judgment, for which there is no exact date, preceded *Super illius Specula*, if only because that Bull disapplies the usual rules on confiscation which apply in heresy cases and that position most likely followed on the (embarrassing) reversal of confiscation in Parthenay's case. Confiscation, or rather its reversal, had been a major issue to judge from the fact that it was covered in the continuation of Nangis's chronicle. But more importantly this case would have set a precedent for any cases where the third category magic was involved. If *Super illius Specula* aimed to change the law on such cases it would have had to state positively that the law on such cases had changed, which it did not do. Indeed, read

⁸⁶ Vidal, *Bullaire*, pp. 74-76, 88-89, 95 and 99-100.

⁸⁷ Nangis, p. 51.

⁸⁸ Quellen, pp.55-59.

together with this case, if *Super illius Specula* did apply inquisitorial law to magic cases, it only did so to those, the first category, which were already covered by it.

Perhaps more significantly the practical difficulties in extending heresy law to magic cases of the third category which are mentioned above must have become immediately apparent to John through the Parthenay case. Even if he had wished to continue to move against magicians using the heresy laws, he, and his advisers, must have seen the inadvisability of such a change. All this points to *Super illius Specula* being more for appearance than effect, or an emasculated version of a more radical idea. This may account for the fact that the Bull is unremarked until Eymerich included it in the *Directorium* in 1376. It has been speculated that this is because the Bull is not a genuine document; but perhaps it was disregarded because, far from being radical, it changed little.⁸⁹ It may be that the Parthenay case was the decisive factor and *Super illius Specula*, whatever the original intentions, was born a mouse. The issue was not settled even in Eymerich's time. There were still those who denied Eymerich's and indeed Gregory XI's interpretation of thinking on this issue, which is shown by Gregory XI's letter to inquisitors and others instructing them to prosecute magicians who 'without thinking: immemores' invoke demons. The letter reads:

[...] some, even some literate people, are opposed to this [i.e. treating more magicians as heretics] pretending that it does not appertain to your office according to canonical sanctions: [...] nonnulli etiam quandoque litterati in hoc se opponunt, pretendentes id ad tuum non expectare officium secundum canonicas sanctiones'.⁹⁰

Some mention should also be made of the case of Alice Kyteler in Ireland, as it shows the widespread consequences of John XXII's concerns. The case is remarkable in that it shows at an early date the witch pathology that became common in the 15th century. The precociousness of the trial (the first witch trial in Ireland) may well have been due to the fact that the bishop concerned, Bishop Ledrede of Ossory, had been educated in Avignon and was appointed to Ossory directly in 1317 by John XXII. He may well therefore have been acquainted with John's developing thinking on magic. The charges against Alice Kyteler and her followers were, nevertheless, ones that clearly fell within the *Accusatus* formula. There was explicit worship

⁸⁹ Boureau, *Le Pape et Les Sorciers*, pp. XLVIII–LI.

⁹⁰ Vidal, *Bullaire*, pp. 405-06.

of demons, and the charges bear some resemblance to those against the Templars and the *topos* about the appearance of a cat has resemblances to the allegation reported by Gui against Waldensians.⁹¹ The trial was not an *inquisitio heretice pravitatis*, because no inquisitors had been appointed in Ireland. The charges also included murder, so that, although the case was before a bishop, it cannot be seen as a simple equivalent to an inquisitorial procedure. Nevertheless the surviving account does refer to the accused as heretics; and the imposition of penances does bear some similarity to Continental procedures.⁹² But the nature of the (alleged) crimes, the explicit adoration of demons, meant that the case could have been treated as heresy at any time.

Another case at about the same time in the early 14th century concerned a certain Geralda in Barcelona. She was accused of sorcery as part of a regular visitation and appeared before a bishop. There was, however, no accusation of worshipping demons nor any indication that her actions were in any way heretical. She was not brought before the inquisitor, who existed at Barcelona at that time and she received a relatively light penance.⁹³ This showed, if nothing else, that magic cases had not been assimilated to heresy at this time.

In 1330 John stood the inquisitors down from their pursuit of invocers of demons, which must have further undermined any impact of *Super illius specula*. At this time although there was a continuing flow of magic cases notably in the secular courts, there was no upturn in inquisitorial magic cases to judge from Kieckhefer's list of witch trials.⁹⁴ 1330 was also the year in which Ugolini is believed to have finished his *Tractatus*.⁹⁵ This makes no mention of *Super illius specula* and carefully notes that worship of anything other than God is heresy; but necromancy and astrology, while forbidden, are to be judged by the bishop not by the inquisitor.⁹⁶ In effect Ugolini describes the *Accusatus* regime. The thinking which led Gui to cover magic cases in the *Practica* seems entirely absent. *De officio*, published between 1320

⁹¹ *The sorcery trial of Alice Kyteler: a contemporary account (1324) together with related documents in English translation with introduction and notes*, ed. by L.S. Davidson and J.O. Ward (New York: Binghampton, 1993), p. 9 and pp. 27-30 and *Practica*, p. 248.

⁹² *The sorcery trial of Alice Kyteler*, p. 31 and p. 67.

⁹³ John Arnold, *Belief and Unbelief in Medieval Europe* (London: Hodder Education, 2005), pp. 97-99.

⁹⁴ Kieckhefer, *European Witch Trials*, pp. 108-47.

⁹⁵ *Tractatus*, pp. 152-7.

⁹⁶ *Ibid.*, p. 154-55.

and 1325, also shows no sign of these uncertainties and debates and merely repeats the *Accusatus* formula *verbatim*.⁹⁷

On the interpretation outlined here, the third category of magic did not constitute heresy before Eymerich's time, notwithstanding the existence of *Super illius Specula*. Guido Terreni's book on heresy, for example, did not count magic amongst the heresies he described.⁹⁸ On this basis Eymerich's *Directorium* can be seen not so much as reinvigorating John XXII's and others' decisions but rather as for the first time changing the canon law interpretation of the *Accusatus* formula so that it covered the third category of magical practices. His arguments on the basis of authority for this change are perhaps not, however, as strong as his plethora of authorities might initially lead one to think. He begins by defining those magicians who are not heretical; as already noted his examples are palmists and water diviners.⁹⁹ He then goes on to define those magicians who are to be punished as heretics as those who offer demons *latria* and *dulia*. *Latria* consists of actions that in effect constitute worship, and includes many practices which a Christian should offer to God (e.g. kneeling, fasting, prayers and adoration).¹⁰⁰ *Dulia* is the reverence which should be offered to saints offered to demons. Eymerich gives the example of people seeking the mediation of demons. Interestingly both Muslims and Beguins were thought to offer *dulia* when they revered Mohammad and Pierre Olivi respectively.¹⁰¹ Eymerich could adduce many authorities for those offering unambiguous *latria* and *dulia* being considered heretics, and this would probably have been the case at any time since 1260, since unequivocal *dulia* and *latria* met the *Accusatus* test. His authorities include theologians (Augustine, Thomas Aquinas, Albertus Magnus and Petrus de Tarantasia), some Franciscans (Bonaventure and Alexander de Ales) and significantly the paper produced by Guido Terreni, one of John XXII's consultees.¹⁰² The legal authorities also support the notion that open *latria* meets the *Accusatus* test, as does Oldradus' opinion, in which he concedes that open *latria* constitutes heresy, albeit he did so with the aim of vindicating his client who did not unambiguously adore demons: 'If you were to adore [demons] it would be heretical and clearly smell of heresy [...]'.¹⁰³

⁹⁷ *De officio*, p. IX and p. 12.

⁹⁸ Terreni, *Summa de haeresibus*.

⁹⁹ *Directorium*, p. 234, BM, fol. XCVIII^v.

¹⁰⁰ *Ibid.*, pp. 235-36, fols XCIX^r -XCIX^v, for the full list.

¹⁰¹ *Ibid.*, p. 236, fol. XCIX^v.

¹⁰² *Ibid.*, p. 237, fol. C^v.

¹⁰³ Quellen, p 57. 'Si enim adorares, hereticum esset vel heresim sapiat manifeste [...]'.¹⁰³

But the most significant part of the argument is where Eymerich endeavours to extend the category of heresy to those who explicitly offer neither *latria* nor *dulia*.¹⁰⁴ Eymerich argues that the act of invoking demons is included in *latria* and quotes a number of points in the *Glossa ordinaria* and the Bible where invoking is seen as the same as *latria*.¹⁰⁵ But these are rather weak linguistic arguments depending on the precise meaning and use of the Latin word *invocare* (to invoke). His most convincing argument is his reference to Aquinas' thinking on demons.¹⁰⁶ Terreni does not entirely support Eymerich in this. He says of those who invoke demons without offering *latria* or *dulia* that the fact of the invocation is not sufficient to prove heresy but that those involved should be rigorously investigated as suspect in faith.¹⁰⁷

Insofar as Eymerich was trying to prove that those invoking demons without clear *latria* and *dulia* were to be considered heretical, he depended above all on Aquinas. Making the third category of magic heretical was consistent with the programme outlined above to extend the inquisition's jurisdiction by making all departures from faith and doctrine effectively a matter of heresy. It had similarities with what Eymerich is trying to achieve on blasphemy. Intent and wilfulness or pertinacity, in effect the underlying belief, were no longer an essential feature of Eymerich's view of heresy in the case of blasphemy or magic. This had an effect on the way suspects were viewed; most of those who were suspected of magical practices *ipso facto* had a pact with demons and were thus heretics. This is discussed further in Chapter VI.

Eymerich's thinking may also have had more immediate and local significance, in that he saw a particular threat in the astrological and other magical practice in and around the court of Peter IV. Michael Ryan has assembled evidence of this in *A Kingdom of Stargazers*. His view is that Peter IV was able 'to indulge in sidereal and occult proclivities with relative impunity' because

¹⁰⁴ *Directorium*, p. 241, BM, fol. CII^v: '[...] in such a way that in their invocations and consultations it does not manifestly appear that any honour of *latria* or *dulia* is exhibited to the demons invoked [...]' ; '[...] taliter, quod in eorum invocationibus et consultationibus non appareat manifeste, quod aliquis honor latriæ vel duliæ exhibeatur dæmonibus invocatis [...]').

¹⁰⁵ *Ibid.*, p. 241, fol. CII^v: '[...] to invoke is included in the act of *latria* and counted and placed amongst the acts of *latria* [...]' ; '[...] invocare pro actu latriæ sumitur et inter actus latriæ enumeratur et ponitur [...]').

¹⁰⁶ *Ibid.*, p. 241, fol. CII^v and p. 237, fol. C^r:

¹⁰⁷ Boureau, *Le Pape et les Sorciers*, pp. 84-85 : 'multum et diligenter tanquam suspectus de fide inquirendus'.

of his strength as a king.¹⁰⁸ On this assumption Eymerich's activities against Llull and magicians like Astruc de Pieira (considered below) might be seen as threatening to Peter, and contributory causes of his banishment. Ryan adduces no evidence of Eymerich directly criticising Peter, although he perhaps underestimates the importance of the section on magic in the *Directorium*, which in effect condemns astrology as practised by Peter as heresy, albeit in restrained and technical language. Ryan does see Eymerich's later treatises as directly relating to court activities under Peter's son, John.¹⁰⁹ Whichever way Eymerich's thinking is viewed, it represented a substantial change in heresy law, a change which John XXII's consultees had been aware of but which they had been nervous of following through. Eymerich had extended the concept of heresy to a much greater number of magic cases.

There is some wider evidence for the context of Eymerich's thinking on magic. Some measurement of inquisition activity on magic in the 14th century is possible through Richard Kieckhefer's list of magic cases in the 14th (and 15th) centuries.¹¹⁰ Assuming that he has not given a wholly unrepresentative sample, some broad inferences can be drawn from this work. The most striking thing about Kieckhefer's list is how few ordinary inquisition cases there are. By 'ordinary' here is meant *inquisitio hereticæ pravitatis* cases which are taken forward by inquisitors, do not stem from a particular remit from Avignon or Rome, do not involve other church officials in the investigation (except as required by canon law) and involve primarily charges of heresy. That is, cases like the vast majority that appear in the *Sententia*. In the 14th century out of some 118 cases listed by Kieckhefer which he thinks may be genuine only 16 cases or less than 20% seem to have involved inquisitors at all. Of these one is the trial of the Templars (never an ordinary case by any standards); five are cases covered in Robert Lerner's *The Heresy of the Free Spirit* (Kieckhefer used Lerner as a source for his list) and fall into a category of case where diabolism is seen as a constituent and makeweight part of a wider heresy; another case in Como is probably a forgery; one in Paris in 1380 seems to have been part of a wider campaign at the University of Paris against the Provost; and another involves Waldensians where the charge was probably defamatory.¹¹¹ Only seven

¹⁰⁸ Michael Ryan, *A Kingdom of Stargazers: Astrology and Authority in the Late Medieval Crown of Aragon*, (Ithaca: Cornell University Press, 2011), pp. 105-06.

¹⁰⁹ *Ibid.*, pp. 124-38. Ironically Ryan sees Eymerich as having a 'seemingly detached, almost clinical manner' but this is in comparison with the other work by Metge which he discusses.

¹¹⁰ Kieckhefer, *European Witch Trials*, pp. 108-147.

¹¹¹ Robert Lerner, *The Heresy of the Free Spirit*, (Berkeley: University of California Press, 1972) and Kieckhefer, *European Witch Trials*, pp.108 – 118.

cases or 8% are unequivocally ordinary inquisition cases on the definition given above. Interestingly three date from the early 1320s when John XXII was keen to use the inquisition in magic cases and three from after 1374 when Gregory XI issued a letter instructing the inquisitor of Paris to go after magicians ‘insofar as canonical sanctions want and require.’¹¹² On the evidence of Kieckhefer’s list there seems to be few inquisition cases involving magicians or witches. Vidal’s *Bullaire* offers similar evidence. It shows a few magic cases before 1340, many dating from John XXII’s time even if eventually resolved by Benedict XII, not all involving inquisitors. Benedict XII (1334-1342) has some 7 cases in the *Bullaire* but between Benedict and Gregory XI (1342- 1362) Vidal only records two magic cases.¹¹³ At least two cases recorded in the 1330s (Hervé de Trévalloet and Jean Anselmes de Gênes) involved appeals to Rome from unjust local action by inquisitors and bishops.¹¹⁴

However in Aragon, as noted in Chapter III the (not very extensive) evidence is that the inquisitors in Eymerich’s time did take on a substantial number of magic cases. The register of cases in Gerona, Vich, Urgel and Lerida in the approximate period 1370-80 shows that (as noted in Chapter III) of some 129 cases with sufficient detail to know the underlying issue some 39, or around 30%, concern magic (typically described as ‘invoking demons’) of various sorts and would seem to meet the definition used above.¹¹⁵ *Prima facie* this seems higher than experience in the rest of the countries covered by Kieckhefer’s list. Johannes Vincke thought that one of the two hands that wrote the list was Eymerich’s but, whether or not this was the case, Eymerich was inquisitor in Aragon during part of the period covered by the register. There are two possible reasons why there was a seemingly high proportion of magic cases. First, it may be that it was a result of renewed papal interest in pursuing magic cases through inquisitors. Gregory XI’s Bull dates from 1374 but there may well have been earlier indications of the Pope’s wishes. Second it could be part of Eymerich’s wider campaign against heterodox thinking (of which Llull is the most famous example) linked to his view in the *Directorium* that all thinking not in line with Church teaching is heresy, and to his view that nearly all magic involved invoking demons and was heretical. Evidence of any magic cases in Aragon before this register is scarce. There was a case in 1352 of unnamed Jews prosecuted by the inquisitor for sorcery, but there are no details of the offence; the issue was only whether the king or the

¹¹² Vidal, *Bullaire* pp. 405-06 ; ‘*prout volunt et dictant canonice sanctiones*’.

¹¹³ *Ibid.*, pp. XLIX – l.

¹¹⁴ *Ibid.*, pp. 213-15 and pp. 167-69.

¹¹⁵ *Zur Vorgeschichte*, pp.162-82.

inquisitor should benefit from the fine.¹¹⁶ Another example concerns Francesca daughter of Bernat de Font who is in the secular custody of the Count of Empuries and whom the inquisitors want surrendered to them for questioning. Here the authors of the letter, the Bishop of Gerona and Eymerich himself, are clear that the sorcery ‘smells of heresy’, that is the case can be pursued in line with the test in *Accusatus*.¹¹⁷ Presumably that assurance had to be given for there to be any chance of Francesca being handed over. The evidence, such as it is, is therefore consistent with Eymerich being a radical ‘new broom’ in respect of magic and taking a vigorous approach towards magical practices in line with his own thinking, for which he had papal backing.

The pursuit of magic cases and the extension of the inquisition’s jurisdiction over magic were part of Eymerich’s all-encompassing inquisitorial approach, which also involved the banning of Lull, bringing blasphemy within the inquisition’s jurisdiction and preaching against Micer Francesch Roma, the Vice-Chancellor.¹¹⁸ Eymerich’s activism would not have been popular with the king if, as Michael Ryan suggests, Eymerich had in his sights magical practices at Court.¹¹⁹

Non-Christians

It had been a constant since *Turbato corde* that for any Christian, whether Christian from birth or a converted Jew, to convert or return to the Jewish faith constituted heresy; and that those who encouraged or helped converted Jews to return to their previous religion (‘fautores: supporters’ and ‘receptores: receivers or harbourers’ in the inquisition’s terminology) could also be punished by the inquisition, even though they might not be Christian.¹²⁰ In this area there is nothing between Gui and Eymerich, although, unlike Gui, Eymerich covers Muslims as well as Jews.¹²¹ *De officio* simply states the canon law on Jews, that is that it constitutes heresy to cross to the Jewish faith or to help individuals to do so.¹²² However, Eymerich differs

¹¹⁶ *Zur Vorgeschichte*, p. 83.

¹¹⁷ *Registrum Litterarum*, p. 418.

¹¹⁸ Heimann, pp. 64-9; and Rubio y Llach, *Documents Per L'Historia de La Cultura Catalana Mig-eval* (Barcelona: Institut d'Estudis Catalans, 1908), pp. 234-235.

¹¹⁹ Ryan, pp. 125-38.

¹²⁰ *Directorium*, p. 242, BM, fol. CIII^r, contain the text.

¹²¹ *Practica*, pp. 288-92 and *Directorium*, pp 242-51, BM, fols CII^v-CVII^v.

¹²² *De officio*, p. 58.

from Gui substantially in that he attempts to extend the inquisition's jurisdiction over non-Christians.

Gui gives an accurate statement of the inquisitorial law of his time as it affected Jews, albeit it is somewhat perfunctory and short.¹²³ He notes the canon law reality that baptism is binding even if imposed on children or by fear of death. There is also an *interrogatoria* or list of questions for those suspected of 'rejudaising' or returning to the Jewish faith constructed on similar lines to those for other heretical crimes. One question concerns a 'card of rejudaisation' which must be carried by those who have returned to their faith so that they can eat and drink with Jews. But the greater part of the section is concerned with a description of a 'rejudaisation' rite and 'the intolerable blasphemy of Jews against Christ, his faith and the Christian people'. There has been some academic interest in these accounts, in the shape of an article by Yosef Hayim Yerushalmi who considered the accuracy of these accounts.¹²⁴ Yerushalmi's conclusion is that these are mostly reasonably accurate accounts of contemporary Jewish prayers and rituals, although some parts cannot be fully tested against Jewish sources. The prayers in particular are recognisable Latin translations of well-known Hebrew prayers.¹²⁵ That said, the translation that Gui uses subtly changes the meaning. The translation is:

Benedictus tu, Deus Dominus noster, rex in seculum, qui non fecisti me christianum vel gentilem: May you be blessed, Our Lord God, King in the world, who has not made me a Christian or gentile.

As Yerushalmi explains the Hebrew text only mentioned non-Jews or 'gentiles', a category which of course for Jews covered Christians; the translation mentions Christians and gentiles separately, because to a Christian *litteratus* Christians were not gentiles. The translation thereby subtly changes the meaning and gives the idea of a Jewish *animus* against Christians not there in the original Hebrew. The section of which these prayers form part is entitled 'the intolerable blasphemy of Jews against Christ, his faith and the Christian people'.¹²⁶ It parallels sections like that on the errors of the Manichees (Cathars), Waldensians and pseudo-Apostles.

¹²³ *Practica*, p. 288.

¹²⁴ Yosef Hayim Yerushalmi, 'The Inquisition and the Jews of France in the Time of Bernard Gui', *The Harvard Theological Review*, 63, 3 (July, 1970), 317-376.

¹²⁵ *Ibid.*, pp. 357-63.

¹²⁶ *Practica*, pp. 290-92.

But Gui cannot talk of errors in the case of Jews, who have not accepted Christianity. If action is to be taken against them, or their books, it has to be on the basis of their activity against Christians. Nor is their ‘blasphemy’ a cause for action in itself. It can be destroyed when contained in the written word (i.e. the Talmud can be burned) but blasphemous speech does not seem to be an issue for Gui.

Yerushalmi is less sure that the re-judaisation rite is accurate. But, he argues, a rite involving ritual washing was necessary for proselytes to convert to Judaism and it was quite possible that the same rite was used to mark re-entry to the faith, albeit baptism from a Jewish point of view does not remove the status of a Jew. Gui’s account should not be dismissed. It is not known how many cases of ‘rejudaising’ Jews Gui dealt with. There are only two cases in the *Sententiae*: Jean de Bretx/Sérignan, who was sentenced to imprisonment and Fleurance Jean/Josse (deceased) who was disinterred and burnt.¹²⁷ There is, however, a formula in Part 2 which provides for fining ‘a certain Jew: alicui judeo’ for helping receive Jewish converts back into the Jewish faith.¹²⁸ There is no evidence whether this represents a single case or one of many. But Gui seems to have taken some interest in Jewish cases; he was instrumental in burning the Talmud on two occasions (considered below under book-burning); and he seems to have taken some pains to inform himself of Jewish rites.¹²⁹

Unlike Gui, Ugolini does not discuss the treatment of rejudaising Jews, or indeed any specific categories of heretic. He does, however, discuss the jurisdiction of the inquisition over Jews. He is quite clear that the inquisitors have the jurisdiction to defend the Christian religion against the insults of Jews (the basis on which Gui burnt the Talmud which ‘insulted’ the Christian religion by arguing that Christ was neither God nor the Messiah) and against hindrances placed against the inquisition.¹³⁰ However punishment could only be by means of fines or by corporal punishment.¹³¹ More interestingly Ugolini concludes that when Jews break their own law they should only be prosecuted when their behaviour damages Christians e.g. by usury; even here

¹²⁷ *Sententiae*, - Jean de Bretx/Sérignan, pp. 1038 and 1088; Fleurance Jean/Jossep, p. 804.

¹²⁸ *Practica*, pp. 49-50.

¹²⁹ *Sententiae*, p. 1206.

¹³⁰ *Practica*, p. 291 and *Tractatus*, pp. 221-22.

¹³¹ *Tractatus*, p. 221.

an inquisitor cannot intervene but a bishop can by virtue of his being a *iudex ordinarius*.¹³² Any faults outside these areas are no business of the Church.¹³³

Eymerich operated in Aragon, which had substantial Jewish and Muslim populations. Even before Eymerich's time, records of inquisitorial activity in Aragon show continuing tension between the King and inquisition over cases involving Jews. There seems to have been continuing pressure on the part of Aragonese inquisitors to bring Jews within their jurisdiction. There is the example from 1352 (mentioned above) involving the then inquisitor who on the advice of the Bishop of Valencia fined some Jews for sorcery.¹³⁴ It is not clear whether this crime was considered heresy or why the particular people were prosecuted. In theory at that time Jews could only come within the jurisdiction of the inquisition in limited circumstances, principally aiding Christians, including converted Jews, to return to Judaism or to become Jews, and the use of fines was not a usual inquisitorial punishment (although Gui also seems to have used them for Jews). Peter IV objected to the inquisitor's action on the grounds that the offences and fines levied on Aragonese Jews were for him. There were also cases involving Jews which were to be expected before the inquisition; the case of Janto Almuli, his wife Jamila and Jucef de Quatorze in 1341-2 involved re-judaization and help from a Jew to that end fell squarely within the inquisition's jurisdiction.¹³⁵ Other cases like Abraham Coroin in 1353 give no indication of the issue for which a fine was levied.¹³⁶ While it may be that cases where there was a contention between king and inquisition were more likely to leave records, it does seem that inquisitors in Aragon took a particular interest in Jews. Robin Vose has set out in detail the desire of the Dominicans to control non-Christians in his work on the Dominicans and Jews in Aragon.¹³⁷

In the *Directorium*, Eymerich has three *quaestiones* involving non-Christian religions. The first two simply state, as Gui did, the canon law on converting or returning to Judaism and Islam respectively, with the relevant instruments quoted in full (*Turbato corde* and *Admodum*

¹³² Ibid., p. 221.

¹³³ Ibid., p. 222.

¹³⁴ *Zur Vorgeschichte*, p. 83.

¹³⁵ Josep Perarnau, 'El Procés Inquisitorial Barceloní contra Els Jueus Janto Almuli, la seva Muller Jamila i Jucef de Quatorze (1341-1342)' in *Revista Catalana de Teologia* 4 (1979), 309-53.

¹³⁶ *Zur Vorgeschichte* p. 86-7

¹³⁷ Robin Vose, *Dominicans, Muslims and Jews in the Medieval Crown of Aragon* (Cambridge: Cambridge University Press, 2009), p. 7; the point is also made at other points in the work.

dolenter).¹³⁸ Interestingly Eymerich gives an account of Gui's rejudaisation rite, which follows Gui's wording very closely.¹³⁹ It may well be that both followed a separate third source or Eymerich followed Gui. It is perhaps surprising that in Aragon, with a substantial Jewish population Eymerich had to use outside sources. This may betray the lack of missionary contact between Dominicans and Jews in Spain, despite the Dominicans' ostensible intentions, which Robin Vose points to.¹⁴⁰ It also reflects the value Eymerich placed on Gui's thinking.

The third *quæstio* deals with the inquisition's jurisdiction over non-Christians. Here his theological understanding of the Jewish faith is much fuller than Gui gives in the *Practica*. His account of what divides Jews and Christians in terms of faith is accurate and his concern, which again has parallels with his thinking on other issues, to increase the inquisition's jurisdiction over Jews and other non-Christians go beyond those areas which Gui describes.¹⁴¹ This *quæstio* is one of the longer ones (some seven pages in the printed edition) and for the greater part he endeavours to set out the legal basis for Jews and Muslims to come under inquisition jurisdiction, not only in the case of converts returning to the Jewish faith and helping those returning, but also in the areas of blasphemy and magic, where he was attempting to extend the inquisition's jurisdiction more generally.

Blasphemy is less prominent than magic in Eymerich's argumentation but he repeats approvingly Aquinas' point that infidels 'should be compelled by the Church, if the means exist, so that they do not obstruct the (Christian) Faith by blasphemies, by evil persuasion or even by open persecution'.¹⁴² Evil persuasion, at least as far as supporting 'rejudaising' was concerned, was already subject to the inquisition, and persecutions of Christians by non-Christians were not a problem in Eymerich's time. But 'blasphemy', saying things which were contrary to Christian articles of faith, was difficult for non-Christians, both Jews and Muslims, to avoid since (for example) both denied the divinity of Jesus Christ. In this Eymerich was no different from Gui and Ugolini, who thought that Jews 'insulting' the Christian religion should be within the inquisition's jurisdiction. (There are ambiguities about the term 'blasphemy'. The earlier discussion of blasphemy concerned Eymerich's attitude towards non-intentional

¹³⁸ *Directorium* p. 242 and pp. 243-44, BM, fol. CIII^r and fols CIII^v-CIII^r.

¹³⁹ *Ibid.*, pp. 242-43, fols CIII^r-CIII^v; cf *Practica*, pp. 288-89.

¹⁴⁰ Vose, p. 7.

¹⁴¹ *Directorium*, p. 244, BM, fol. CIII^r.

¹⁴² *Ibid.*, p. 246, fols CIII^v-CV^r: Sunt tamen compellendi ab ecclesia, si facultas adsit ut fidem non impediunt, vel blasphemias, vel malis persuasionibus, vel etiam apertis persecutionibus.

blasphemy committed by Christians when under pressure or when drunk; here we are dealing with ‘blasphemy’ which was intentional, since it concerned the essence of individuals’ faith.)

The basis for the extension of inquisition jurisdiction over magic by non-Christians is first the supposition that heresy can equally well be committed against those parts of non-Christian faiths which are common to Christianity, and Eymerich specifically mentions sacrificing to demons as an example of this.¹⁴³ The second part of the argument stems from earlier canon law. Canon lawyers and theologians had earlier allowed that the Pope, with his *plenitudo potestatis*, had jurisdiction over Jews in matters of heresy. But they allowed that this power could only be used in certain circumstances. The normal pattern was that Jews should be judged by their own institutions on such matters as bad behaviour or heresy against the Jewish faith; the Pope should only intervene when there was a failure to act by the appropriate authorities. There was also a right to act when Jews ‘blasphemed’ the Christian religion. This had been set out clearly by Innocent IV.¹⁴⁴ Eymerich devotes considerable time to refuting the argument that jurisdiction over Jews and Muslims lies with the secular power. He argues that the inquisition is uniquely placed to judge issues like blasphemy and heresy, and that in heretical matters it is for the Church to decide and the secular arm to punish.¹⁴⁵ But, at least in presentational terms, Eymerich’s key argument for extending the inquisition’s jurisdiction is his successful inquisitorial trial of Astruc de Pieira for the crime of magic with the direct support of the Pope, despite the attempts of the secular arm to wrest him from the inquisitor’s control.¹⁴⁶ This was a realisation of Dominican attempts to secure greater control over non-Christians as well as a practical implementation of Eymerich’s thinking; wider Dominican concerns and Eymerich’s ambitions for the inquisition were happily combined.¹⁴⁷ Also, while

¹⁴³ Ibid., p. 244, fol. CIIIF.

¹⁴⁴ James Muldoon, *Popes, lawyers and infidels: the church and the non-Christian world, 1250-1550* (Liverpool: Liverpool University Press, 1979), p. 10: ‘Item Iudæos potest iudicare Papa, si contra legem evangelii faciunt in moralibus, si eorum prelati eos non puniant, et eodem modo si hæreses circa suam legem inveniant, et hac ratione motus Papa Greg et Inn. mandaverunt conburi libros talium, in quo multæ continebantur hæreses, et mandaverunt puniri illos, qui prædictas hæreses sequerentur vel docuerunt: Item, the Pope can judge Jews if they act morally against the law of the Gospel, if their prelates do not punish them, and in the same way if they invent heresies against their own law; and, impelled by this reasoning, Popes Gregory and Innocent ordered the books of those types in which many heresies were contained to be burnt and ordered those who followed or taught the aforesaid heresies to be punished.’

¹⁴⁵ *Directorium*, pp. 246–48, BM, fols CV^r-CVI^r.

¹⁴⁶ Ibid., pp. 250-51, fols CVII^r - CVII^v.

¹⁴⁷ Vose, p. 7.

his behaviour over de Pieira did not lead directly to his expulsion from Aragon, it can hardly have endeared him to King Peter. The case threatened the king's jurisdiction and a valuable source of revenue. The importance Eymerich saw in the de Pieira case can also be judged from his work on non-Christians attacking the Catholic Faith, which was written after the *Directorium*.¹⁴⁸ In this Eymerich presents the de Pieira case as setting a precedent for inquisitors in Aragon being able 'to act against Jews and Muslims giving offence about and against the Faith'.¹⁴⁹ Eymerich was going beyond what both Gui and Ugolini had stated in their works. *Contra christianos demones invocantes* sets out Eymerich's arguments in this area in greater detail than the *Directorium* and these have been analysed by Claudia Heimann. The arguments in that work are essentially those developed by canon lawyers, that is that non-Christians could commit heresy, or at least its equivalent, by going against the precepts of their own faith. Her conclusion is that the extension of inquisition jurisdiction over non-Christians was based on earlier practice and she adduces cases where Jews had been tried by inquisitors for blasphemy.¹⁵⁰ However, the de Pieira case also had novel elements in that it combined earlier thinking on non-Christians with Eymerich's new thinking on and more aggressive approach towards magic.

The degree to which Eymerich's thinking represented a novel and contested, and perhaps distinctively Dominican, position in the Aragon of his time can be seen from the existence of a short *tractatus* by an Aragonese Carmelite, Felip Ribot, written shortly after the *Directorium*.¹⁵¹ Jaume de Puig i Oliver sees Ribot as 'a person important in his time and appreciated at court'.¹⁵² He was mentioned by Peter IV as one amongst several candidates to take Eymerich's job in 1375.¹⁵³ It is not absolutely clear that his paper was commissioned by the king as a rebuff to the arguments in the *Directorium* but Puig i Oliver thinks the evidence for this from the fact that the manuscript was kept in a royal archive is very strong.¹⁵⁴ It is also

¹⁴⁸ 'Contra infideles fidem catholicam agitantes and Tractatus de hæresi et de infidelium incredulitate et horum criminum iudice' ed. Josep Perarnau i Espelt, *Arxiu de textos catalans antics*, 1 (1982), 79-126.

¹⁴⁹ *Ibid.*, pp. 118-21: 'procedere contra iudeos et saracenos circa et contra fidem delinquentes'.

¹⁵⁰ Heimann, *Quis proprie hereticus est?*, pp. 623-24.

¹⁵¹ Felip Ribot, El 'Tractatus de Hæresi et de Infidelium Incredulitate et de Horum Criminum Iudice, de Felip Ribot, O. Carm'. ed. by Jaume de Puig i Oliver in *Arxiu de Textos Catalans Antics*, V, 1 (1982), 127-90.

¹⁵² *Ibid.*, p. 129: 'un personatge important al seu temps, apreciat a la Cort'.

¹⁵³ *Zur Vorgeschichte*, pp. 110-11.

¹⁵⁴ El 'Tractatus de Hæresi', p. 149.

not clear whether Ribot had seen a copy of the *Directorium*. But his *tractatus* does address the arguments in the *Directorium* about inquisitorial jurisdiction over non-Christians either because they had been put in the *Directorium* or simply because they were current in Aragon at that time. The principal argument in Ribot's *tractatus* is that non-Christian religions are human faiths which do not come from God and that therefore they have nothing to do with the Christian faith and do not share anything in common with the Christian Faith.¹⁵⁵ The second of Eymerich's arguments, that there is heresy amongst non-Christians which inquisitors should tackle in the absence of action by others, thereby falls. Ribot's other argument is that the inquisition's policing of actions by non-Christians to lure *conversi* back to their faith should be a matter for the secular power if only because the secular power can impose harsher punishments.¹⁵⁶ In this he is potentially in conflict with *Turbato corde* which allows those luring Christians to non-Christian religions to be tried by the inquisition.

Book burning and Intellectual heresy

Heresy in the Middle Ages existed not only in the persons of heretics but also in the written word. The policing of the written word was achieved through the burning of books just as the policing of heretics was achieved in extreme cases by the burning of heretics. Heretics, unlike books, had souls and enjoyed the mercy of the church on the first occasion, and always had the possibility of reconciliation. The policing of books was done mainly by Church officials other than inquisitors. Out of 49 instances of book-burning recorded by Thomas Werner in the 14th century only 17 were carried out by inquisitors; and, of these 17, 8 were by Eymerich.¹⁵⁷ This is not to argue that inquisitors did not burn books but rather to say that it was a function carried out throughout the Church and was not restricted to inquisitors.

Gui notoriously burnt the Talmud on two occasions.¹⁵⁸ Two points should be noted about these incidents. First, in carrying out the burnings, Gui was acting as part of a wider secular campaign. On the first occasion in 1310 he gathered up the copies of the Talmud remaining in his inquisitorial area following the expulsion of Jews from France by Philippe IV in 1306; the

¹⁵⁵ Ibid., p. 171: 'Iudei autem et pagani non solum quantum , ad Novum, immo etiam quantum ad Vetus Testamentum sunt in fide foris penitus a nobis'.

¹⁵⁶ Ibid., p. 186.

¹⁵⁷ Thomas Werner, *Den Irrtum liqidieren* (Göttingen: Vandenhoeck & Ruprecht, 2007), pp. 565-76.

¹⁵⁸ *Practica*, pp.67-71; and *Sententiae*, pp. 1206-7.

accompanying demands to secular and clerical authorities to collect the Talmuds are in the *Practica*.¹⁵⁹ A month before the authorities had burned three wagonloads of Jewish books in Paris, so it must be likely that he had been asked to take this action as part of a wider campaign. In 1319, after the return of Jews in 1315, there is a note in the *Sententiae* to the effect that he burned the Talmud, which remained banned. Following his action there was a papal Bull to the effect that the Talmud should be seized, examined and burnt.¹⁶⁰ In the entry in the *Sententiae* Gui makes it clear that the condemnation was done with the help of experts, which was necessary because the books were in Hebrew.¹⁶¹ Gui's control of the written word was part of a wider campaign and the actual condemnation of the Talmud (perhaps a formality in the circumstances) was done with the help of experts. Gui, at least on the first occasion, did not see this as his acting against heretical works, but rather as cooperating against blasphemous works as part of a wider campaign. He makes it clear the inquisitor is acting on the basis of secular authority, not on the basis of his delegated papal authority, that is 'the aforesaid inquisitor and seneschal, by order of the king given to them by letter, have had each and every book diligently inspected [...] (our emphasis).¹⁶² Indeed the sentence included in the *Practica* is not in the *Sententiae*, perhaps because it was not seen as being in the same category as other sentences against heretics.¹⁶³ Gui was in fact helping out the secular power in an area where the Church had the expertise. However, the *Sententiae* does show Gui being more active in securing the destruction of further Talmuds on the second occasion in 1319.¹⁶⁴ In this action he was following established royal policy but he does present the action, albeit carried out by royal agents, as at his own initiative. Perhaps by 1319, after more than 10 years as an inquisitor, Gui felt able to take this initiative. But equally one might argue that blasphemy of the sort in the Talmud is inherently close to heresy particularly in written form and that therefore Gui felt comfortable in his actions. Beyond the Talmud Gui makes no mention of burning books. It is

¹⁵⁹ *Practica*, pp.67-71.

¹⁶⁰ *Dudum felicis recordationis*, 20 September 1320.

¹⁶¹ *Sententiae*, p. 1206 : '[...] errores et blasfemias contra Dominum Jesum Christum et ejus sanctissimam genitricem Virginem Mariam et nominis Christiani, qui errores et que blasfemie in eisdem libris inveniebantur contineri per juratos examinatores peritos hebrayca lingua, habito prius consilio maturo per eundem dominum inquisitorem cum peritis in utroque jure et religiosis et aliis multis discretis viris in aula veteri domini regis Tholose.'

¹⁶² *Practica*, pp. 170-71: '[...] de mandato regis litteratorie eis facto prefati inquisitor et senescallus fecerunt omnes et singulos libros diligenter inspici [...] (our emphasis).

¹⁶³ *Ibid.*, pp. 170-71.

¹⁶⁴ *Sententiae*, pp. 1206-07.

likely that Cathar and Waldensian texts were destroyed but this action has left no mark on the surviving records. Nor do Ugolini or *De officio* make any mention of book-burning.

Eymerich again is different. The *Directorium* contains Part 2, in the *quæstiones*, a list of books condemned by various authorities, including the inquisitors of Aragon as well as Popes and other authorities. Eymerich in fact conceives that inquisitors working on their own initiative will examine and condemn books.¹⁶⁵ In this technically he is in the same position as Gui. But, as far as we know, Gui stuck to one book, the Talmud, which he knew was already condemned. Although he might have acted on his own initiative to a limited extent, his action was within set parameters. Eymerich, on the other hand, saw inquisitors as having the right to condemn any book they judged heretical. He did seek the Pope's agreement to the condemning of Lull but even then the initiative was wholly Eymerich's. He seemed to enjoy a wide initiative to condemn the written word and indeed made this function an integral part of the inquisitor's job. Of the seven books he is known to have condemned four were books on magic, but the other three, to judge from their titles, were not. The two cases which predated the *Directorium* include Nicholas de Calabria's book '*Virginale*'. We know that the book was dictated to Nicholas and an accomplice by a demon.¹⁶⁶ We only have a broad outline of the errors that Nicholas held.¹⁶⁷ There was also a book by Bartholomeus Ianovesius about the coming of the Antichrist and again we have a broad idea of his errors.¹⁶⁸ In all these cases Eymerich was accompanied by a *vicarius* of the Bishop, but there is a pattern of an inquisitor judging not only magical books but also theological works, albeit ones which seem, on Eymerich's evidence, to have contained gross errors. Eymerich in fact was subsuming the function of policing intellectual life into the inquisitor's role. This can be seen even more clearly in the case of Lull.

From the point of view of this thesis two issues arising from the Lull affair are of particular importance. First why did Eymerich pursue Lull so vigorously? And second, how did Eymerich's role in securing the banning of Lull's works fit in with his other thinking on inquisition? Gui did not pursue any case like that of Lull. But there were cases with parallels to the Lull case in Gui's time. For example, Olivi had a popular following similar to that of

¹⁶⁵ *Directorium*, pp.225-26, BM, fol. XCIII^v.

¹⁶⁶ *Ibid.*, p. 225, fol. XCIII^v.

¹⁶⁷ *Ibid.*, p. 200, fol LXXIX^v.

¹⁶⁸ *Ibid.*, p. 226, fol. XCIII^v; and p. 200, fols LXXIX^v-LXXX^r.

Llull, and his followers were prosecuted by Gui as Beguins. But Olivi's heretical works, the *Postilla super Apocalipsim*, had been condemned in 1319 by eight masters in theology at Avignon, not in Toulouse under Gui's direction.¹⁶⁹ And when Gui did perceive a need for further papal condemnation of the doctrines of the pseudo-Apostles in line with that of the Beguins he asks that the Pope do it.¹⁷⁰

Eymerich took a much more dynamic role in the Llull affair. The process of condemning Llull was 'at the instigation of Friar Nicholas Eymerich inquisitor' in the words of King Peter in January 1377 or as a result of a referral from Eymerich according to the Pope in 1372.¹⁷¹ As the Pope's letter also makes clear Eymerich was given a lead role in the condemnation process (which the *Directorium* confirms), and we know that, for example, he prepared the translation of parts of Llull's Catalan works into Latin for theological study by the experts.¹⁷² Eymerich sets all this out clearly in the *Directorium* and was in fact the driving force behind the condemnation of Llull, which took shape in the Bull *Conservationi puritatis catholice* on 25 January 1376.¹⁷³ In doing so he was carrying out the same sort of role as in the case of Nicholas de Calabria except that he brought in the Pope to make the decision and to lend his authority to the condemnation of a popular figure, albeit one dead for a number of years. Eymerich might conceivably have made this decision himself but clearly felt it was politically advisable to have it made at higher level, because it gave the condemnation greater force through a papal Bull (*Conservationi puritatis catholice*. Peter IV took up the issue on 7 January 1377, in a letter to the Pope, in which he sought, seemingly somewhat after the event since the pope had ruled that Llull's works were heretical in 1376, to have the works judged by Catalan academics in Majorca rather than by Eymerich.¹⁷⁴ But of course by then, Eymerich being in exile in Avignon, any further process in Aragon could no doubt be heavily influenced by the king and insulated from Eymerich. There is also the implication, although Peter's letter does not state it outright, that a judgment by the pope in Avignon was not sufficiently sensitive to the Catalan language or local views.

¹⁶⁹ Described in the *Practica*, pp. 265-66.

¹⁷⁰ BNF, Doat XXX, fol. 120^v.

¹⁷¹ Antonio Rubió y Lluch, *Documents per l'història de la cultura catalana mig-èvol* (Barcelona: Institut d'Estudis Catalans, 1908), p. 268: '[...] ad instigationem fratris Nicolai Eymerici inquisitoris pravitatis heretice [...]' and p. 241.

¹⁷² *Directorium*, pp. 189-90, BM, fol. LXXIII^v.

¹⁷³ *Ibid.*, pp. 189-90, fol. LXXIII^v and pp. 223-25 (the text is at of the printed version but is absent from the manuscript).

¹⁷⁴ Rubio y Lluch, pp. 268-69.

The *Directorium* makes it clear that, first, Eymerich saw the condemnation of Lull's works as part of his work as inquisitor. He had started the process when he was still resident in Aragon. Second, although the theological condemnation was on a hundred separate counts (*articuli*), Eymerich also condemns Lull on eschatological grounds, inter alia, that 'Raymond himself asserts in his books that he had [his teaching] on a mountain from Christ, who appeared to him (as he says) crucified; he is thought to have been the devil, not Christ'.¹⁷⁵ In effect Lull like Eymerich's magicians has been used by the Devil, and presents a risk above and beyond his particular teachings. This demonization of heresy is discussed further in Chapter VI, but it should be noted that the pursuit of Lull is part of Eymerich's overall concept of the role of inquisitor both in that he is securing all the Church's boundaries and in that, like many others, Lull is a dupe of demonic forces.

The Inquisition's Status

Gui saw bishops and a number of other ecclesiastical ranks as superior to inquisitors; he gives a list in Part 4 of the *Practica*.¹⁷⁶ He himself finished life as a bishop which he must have regarded as promotion. Gui went to see the Seneschal, the Seneschal did not come to him, when he wanted to secure his oath.¹⁷⁷ He was only one of several inquisitors in the kingdom of France. While clearly Gui's *Practica* and other works value the inquisitorial role, they do not employ the exalted language used by Eymerich about inquisitors.

Eymerich was inquisitor for the greater part of a single political entity (the kingdoms of Aragon); his jurisdiction (give or take some overseas possessions) had the same territorial extent as the king's. He covered a wider area than any archbishop in Aragon. That he was trying to carve out a more autonomous role for himself and the inquisition can be seen from the enhancements to his role which have already been discussed at the beginning of Chapter III. Gregory XI freed Eymerich personally from any constraints that might be imposed by the Dominican hierarchy.¹⁷⁸ The *Directorium* records this as a privilege for all inquisitors.¹⁷⁹

¹⁷⁵ *Ibid.*, p. 190: 'ipse Raymundus asserat in libris suis, quod eam habuit in quodam monte a Christo, qui sibi (ut dixit) apparuit crucifixus: qui putatur fuisse diabolus, et non Christus.'

¹⁷⁶ *Practica*, p. 209.

¹⁷⁷ *Sententiae*, p. 322.

¹⁷⁸ *Zur Vorgeschichte*, pp. 107-08.

¹⁷⁹ *Directorium*, p. 357, BM, fol. CLIII^r; and Vidal, *Bullaire*, p. 395.

Eymerich also secured the concession whereby all inquisitors could take their *socii* to Rome to consult the pope without the permission of the local order, which is discussed in Chapter II. Both changes gave the Aragonese inquisitor and others a greater ability to pursue matters directly with Avignon/Rome without taking the views of the local order into account. The autonomy of the inquisition was thereby increased.

In parallel with this Eymerich's writings outside the *Directorium* show an exalted view of the role of inquisitor. He says in one of two specimen sermons for a dead inquisitor that it appears that 'an inquisitor of heretics is in strength an angel cherubim'.¹⁸⁰ Of course a funeral sermon will in the circumstances be cast in somewhat inflated language but nevertheless the implication is that, as a cherub, an inquisitor will protect the Church as a whole from attack and is in the second rank of the nine orders of angels, to use the classification of Pseudo-Denis the Areopagite. Using angelic rank as an allegory for earthly rank puts the inquisitor's rank second only to the Pope as Christ's Vicar on earth, and on a par with all other Church dignitaries. Hence an incoming inquisitor addresses himself in the first instance to the king or temporal lord and seeks his assistance, reminding him of his duty to do so under canon law.¹⁸¹ The tone is that of an equal or near-equal addressing the king or temporal lord; and in the *Unam sanctam* scheme both inquisitor and king would both be near the top of the hierarchy, but both subordinate to the Pope. When it is a question of the king's subordinates Eymerich demands they come to him.¹⁸² Gui does not think of the Seneschal and even less the king of France in these terms. One might dismiss Eymerich's views as fantasy, and there was no doubt some element of that because Eymerich was writing in exile. But later inquisitors who used Eymerich's work would simply follow Eymerich's practice.

Conclusions

Gui saw himself as being a delegate of the pope, dealing with heresies which were distinct pathologies which could be described and dealt with, albeit each by slightly different methods. He certainly saw himself as protecting the Catholic Church, but the decision about which

¹⁸⁰ 'Dos sermons de Nicolau Eimeric O. P.' ed. by Jaume de Puig i Oliver', *Arxiu de Textos Catalans Antics*, 19 (2000), 227-267, (p. 250): '[...] inquisitor hereticorum est cherubim angelus virtualiter'.

¹⁸¹ *Directorium*, p. 267, BM, fol CXIII^r.

¹⁸² *Ibid.*, p. 268, fol. CXIII^v-CXV^r.

threats he should pursue was taken elsewhere. Of course he was concerned that heresies should be dealt with and when he saw a new heresy, in the shape of the pseudo-Apostles, he was prepared to take action but he was also concerned that the movement be formally made a heresy and helpfully offers the pope a form of words.¹⁸³ Gui did not see it as his role to define heresy against the Church's teaching or to patrol all the Church's boundaries, but rather to pursue the members of a specified groups. He was not greatly concerned about magic, although it could involve heresy, and not at all concerned about blasphemy *qua* heresy.

Eymerich's over-arching concept is that the inquisitor should be responsible for policing all the Church's boundaries, defined as the totality of the Church's teaching and the scriptures; and that it was for the inquisitor to take the initiative in protecting these boundaries.¹⁸⁴ Those boundaries were themselves expanded in at least three ways compared with Gui's and Ugolini's time. First crimes which had not previously in practice been considered heretical – some magical practices and blasphemy – were redefined as heresy. These were areas where the action itself was heretical, and did not depend on the pertinacious holding of an error. In this Eymerich was not original; Boureau has traced the thinking about 'heretical facts', which deviated from the then prevailing thinking about heresy, back to John XXII's consultation in 1320.¹⁸⁵ But Eymerich included this idea in a manual used by many and thereby realised the change, which had never been implemented. Indeed Eymerich can be seen as giving *Super illius Specula* more importance than it was intended to have. Second, the inquisition took on the duty of policing all intellectual life. The degree of change here is difficult to pin down. Earlier in the century Marguerite Porète had been condemned by inquisitors but the trial of Aquinas' work had been handled within Paris University. Llull, however, was dealt with by an inquisitor. Practice was not uniform. It would perhaps be most accurate to say that Eymerich made explicit that the task of combatting all heresy should lie with the inquisition and inquisitors could have a wider role in defining heresy. In that he went much further than Gui. Third, crimes such as magic and blasphemy, in part because they no longer required the element of rejecting Christian teaching, could include non-Christians. Non-Christians who acted against the Faith could be

¹⁸³ BNF, Doat XXX, fol.120^v and fols 128^v-132^v.

¹⁸⁴ Grado Merlo detects a widening of the inquisition's activity in Piedmont at much the same time as the *Directorium*, although he describes this as an attack on non-conformism; see Merlo, *Eretici e Inquisitori*, p.72.

¹⁸⁵ Boureau, *Le Pape et les Sorciers*, p. VII.

prosecuted in the same way as Christians. This was a considerable extension of the inquisition's role in theory, even if Eymerich's implementation in practice was patchy.

These conceptual developments were part of a longer term process by which the originally temporary *inquisitio hereticæ pravitatis* became a fixed and necessary part of the Catholic Church, a development which is discussed further in Chapter VII.

Chapter VI: Detection, Interrogation and the Inquisitor's Relationship with Suspects

An effective detection and interrogation process was essential for the success of the 14th century inquisition; unless inquisitors could detect heretics, and secure convictions, their mission to eliminate heresy would be unsuccessful. Detection required some effort. As Gui lamented, most heretics in his time 'tried to cloak their errors in secret rather than confessing them openly,' a statement which was perhaps most relevant to Cathars and Waldensians, who by dint of long persecution had become secretive.¹ But all heretics had to be detected and their heresy brought into the light in some way. There was also a need while doing this to maintain confidence in the inquisition amongst all external groups, as Chapters III and IV have shown.

No changes to inquisitorial canon law were made after *Multorum querela/Nolentes* in 1317; but within the canon law framework practice continued to evolve. Canon law left considerable scope for interpretation and rule-setting. This chapter describes those areas where the process of detection and interrogation evolved and attempts to explain why.

Detection and interrogation are an area which has been of particular interest to recent historians writing from a number of different perspectives. John Arnold, for example, has concentrated on the dynamics of the interrogation process from a Foucauldian perspective; the full records of some interrogations in the Languedoc make this a way of understanding the stratagems followed by those involved and the power of their respective positions.² James Given has analysed interrogation techniques from a broadly Marxist perspective, which can help place the inquisition in its social/political context as well as helping to understand inquisition techniques.³ These analyses are valuable; but they tend to regard the inquisition as unchanging or at least as having reached a final form in Gui's time. As this thesis attempts to show, the inquisition continued to evolve in the 14th century.

¹ *Practica*, p. 236: '[...] nituntur latenter palliare errores suos magis aperte fateri [...]']

² Arnold, *Inquisition and Power*.

³ Given, *Inquisition and Medieval Society*.

In 1974 Annie Cazenave pointed out that the interrogation process had a dual function, punitive and penitential, which were combined in a single process. The inquisition's processes are more comprehensible if this duality is kept in mind.⁴ Nearly all elements of the inquisitorial process played a role in the 'inner forum', or the suspect's conscience, where his or her relationship with God was played out and penitence achieved, but were also part of the punitive dimension of the inquisition's work. Abjuration is an example of this dual role. It could take place, whatever punishment might have been inflicted, as an external manifestation of what should have been an internal rejection of heresy in the heretic's conscience and of a commitment to penitence. However the fact of abjuration also had legal and punitive significance; unless the suspect was a *relapsus*, whether or not abjuration took place would determine the nature of a future penalty. Confession also played two roles. It unlocked the path to penitence and reconciliation with God but also the path to penance and punishment, which themselves could be identical in form. (In French there is a useful distinction between confession in the criminal sense ('aveu') and confession in the religious sense ('confession'). The former can be rendered into English as 'admission' although 'confession' is the usual colloquial term; 'admission' will be used here to maintain the distinction when it is necessary to the argument, although 'confession' will be used in a combined penitential and punitive sense.) The most notable aspect of the inquisition's work which only had one dimension was release to the secular arm, which could only be understood as punitive. It was aimed at protecting society against recalcitrant heretics and those who had relapsed into heresy, by both destroying the heretic and deterring others. This dual process reflected the dual role of the inquisition in protecting society and saving the heretic's soul, if possible.⁵

This melding of criminal law with penitential regime in some ways places the *inquisitio hereticæ pravitatis* outside the normal run of canon law. Henry Ansgar Kelly recently published an article in *Speculum* on the trial of Marguerite Porète in 1308-10, one of the first inquisition trials concerning the novel heresies that were a feature of the 14th century.⁶ He makes three criticisms of the trials of Porète: first the proceedings were procedurally flawed

⁴ Annie Cazenave, 'Aveu et contrition : manuels de confesseurs et interrogatoires d'inquisition en Languedoc et en Catalogne, 13-14e siècles', in *La piété populaire au moyen âge: actes du 99e Congrès national des sociétés savantes* (Besançon: 1974), pp. 333-52.

⁵ *Ibid.*, pp. 337-39 in particular, but the argument is developed across the whole article.

⁶ Henry Ansgar Kelly, 'Inquisitorial Deviations and Cover-Ups: The Prosecutions of Margaret Porete and Guiard of Cressonessart, 1308-1310', in *Speculum*, 89, 4 (2014), 936-73.

and therefore invalid because she was required to take an oath incriminating herself, which was against canon law; second the inquisitor, William of Paris endeavoured to hide this fact when he consulted *iurisperiti* on the case thereby invalidating their advice; and third Porète could not legally be condemned as heretic simply for refusing to swear an oath to tell the truth. On the first point Kelly argues:

But the non-canonical way in which heresy inquisitors often proceeded was to interrogate such suspects without revealing grounds for suspicion and without preferring charges, imposing the new self-incriminating oath *de se et aliis*, and requiring the suspect to conjecture why he or she had been summoned.⁷

In fact the oath had full legal authority in inquisitorial matters; it was set out for the first time in the *Ordo processus Narbonensis* in 1243.⁸ The Council of Narbonne in the same year alluded to the practice, but did not directly authorise it.⁹ It may have been contrary to earlier canon law, but would have been justified as part of the penitential regime and the overriding need to root out heresy. It was established practice well before the 14th century and it is doubtful that it would still have been an issue for lawyers by then. As for William of Paris concealing what he had done from the *iurisperiti*, William undoubtedly limited what he told them. Sean Field describes this in his book on the Porète trial and suggests that William was following a strategy to secure their agreement to the conviction of Porète stage by stage; he was using procedure to get support for a difficult decision.¹⁰ Gui and d'Ablis were similarly aware of the need to build consensus (see Chapter III). It was also inquisitorial practice to tell *iurisperiti* as little as possible about a case to avoid any personal prejudices playing a role, as Gui sets out in the *Practica*.¹¹ There was nothing unusual or necessarily suspicious about William's way of proceeding. Kelly's third point raises an interesting issue which is discussed below.

⁷ *Ibid.*, p. 941.

⁸ *Texte zur Inquisition*, p.71.

⁹ Mansi, XXIII, col. 363.

¹⁰ Sean Field, *The Beguine, the angel, and the inquisitor: the trials of Marguerite Porete and Guiard of Cressonessart* (Notre Dame: University of Notre Dame Press, 2012), p. 102.

¹¹ *Practica*, pp. 83-84.

Detection

Detection is not an issue which the inquisitors address as such, perhaps because their thinking was dominated by the penitential aspects of their work. Under a penitential regime confession and denunciation were to be expected as religious duties; detection using bribes or other inducements belonged to the delicate side of inquisitorial work and was less in harmony with the penitential part of their work. No manual therefore describes in full or in a single place how *in practice* heretic suspects were to be located and apprehended, with the exception of the mechanism of the period of grace. But in the case of Gui's inquisition (although not Eymerich's) it is possible to reconstruct a wider picture of how suspects were detected in practice from evidence which crops up at various points in both the *Practica* and the *ææ* and elsewhere.

There was a wide selection of means available to detect heretical suspects. There were first inducements both for heretics to confess and others to denounce them. The classic inquisitorial inducement, described in the manuals, was of course the period of grace, during which those who spontaneously confess and abjure are dealt with leniently. Gui in the *Practica*, unlike Eymerich, does not give much information on how a formal period of grace might be orchestrated when inquisitors arrived at a particular spot; his inquisition was sedentary at Toulouse and the offer of a period of grace was more naturally a function of an inquisition which was mobile and arrived from time to time at new places. However, the concept of a period of grace had currency in the Languedoc. Earlier authorities, in particular the Council of Narbonne in 1243 did confirm the validity of treating 'more leniently: mitius' those who spontaneously confess and tell the truth about themselves and others.¹² 'More leniently' meant non-imprisonment and the imposition of crosses for those who confessed spontaneously, rather than the sentence of imprisonment given to those who confessed after interrogation. This is formalised in the *Ordo processus Narbonensis*, which makes the announcing of this indulgence a part of setting up an inquisition.¹³ This provision is replicated in the *Practica*.¹⁴ Undoubtedly the knowledge that spontaneous confessions, whether or not there was a period of grace, would be treated leniently would have induced some to confess. Célestin Douais remarks that the

¹² *Texte zur Inquisition*, p. 60.

¹³ *Ibid.*, p.70.

¹⁴ *Practica*, p. 182.

phrase ‘testis non citatus: a witness or suspect not summoned’ was not rare in the records of interrogation.¹⁵

Suspects could also be denounced by others, often in a less open way. It is likely that spontaneous and secret denunciations against suspected heretics were made to Gui’s inquisition, for high or base motives (there was a reward payable for the detection of heretics fixed by the Council of Albi in 1254 at one mark or 20 *sous tournois*); but the circumstances of these denunciations is not always clear.¹⁶ One example which is clear is a case of false witness, where Gui is compelled by the logic of the case to describe how the false testimony was made. Ponce Arnaud falsely testified against his son, and Gui notes that Arnaud’s testimony was in effect spontaneous (‘coming without being summoned: *veniens non vocatus*).¹⁷ Similarly there is a laconic statement in another case that Adhémar Bojon was ‘revealed and detected by others: *per alios revelatus et detectus*.’¹⁸ The *Sententiae* also record that Guillaume Fort of Montailou had been ‘*acusatus tanquam suspectus de heresi*: accused as a suspect of heresy’ before Geoffrey d’Ablis.¹⁹ The suspicion must be that spontaneous denunciations were a common occurrence for Gui.

The power to vary sentences and offer lenient treatment, which the inquisitors possessed as papal delegates (although the power to inflict the most severe penalties, perpetual prison and release to the secular arm, was circumscribed by *Multorum querela* after 1317), was also a useful tool for detecting heretics in other ways, and is a practice which has left traces.²⁰ The *Practica* contains a formula for a letter absolving someone who was promised mercy if he could procure the capture of a heretic or heretics (by which Gui means Cathar *perfecti* or Waldensians).²¹ It is likely that, in order to achieve this, the person concerned would have had to continue to live as a heretic. In such cases individuals would be promised and receive full

¹⁵ Célestin Douais, *L’inquisition: ses origines et sa procédure* (Paris: Plon-Nourrit, 1906), p. 164.

¹⁶ An accusation – *accusatio* – was by its nature open; a denunciation – *delatio* – secret. Denunciations were more common than accusations. For rewards see Mansi, XXIII, cols 832-33.

¹⁷ *Sententiae*, p. 552.

¹⁸ *Ibid.*, p. 988.

¹⁹ *Ibid.*, p. 1260.

²⁰ *Practica*, p. 187.

²¹ *Ibid.*, pp. 220-22. Gui makes a distinction between full (*perfecti*) heretics and *credentes* for both Cathars and Waldensians.

immunity from all penance/punishment, if they proved successful in securing other heretics.²² This formula (which has already been discussed in Chapter IV in relation to *sermones*) is not found in the *Sententiæ*, since its use would have occurred outside the *sermones generales* (it prevented a trial from happening and therefore there could be no sentence). This use of immunity is defended in the text effectively by saying that, since heretics walk in the ‘shadow of the son of darkness’, they could only be detected by their accomplices and that the ‘business of the Faith: negotium fidei’ required on balance that immunity be offered.²³ There is a parallel case in the *Sententiæ* where Guillaume Hugou gives information about heretics after being promised mercy (*gratia*) if he did so and has the *relapsus* penalty of release to the secular arm downgraded to perpetual imprisonment.²⁴ This obviously refers to a case where information was in fact passed on; Hugou had a powerful inducement to do the inquisitors’ bidding. Yet another formula in the *Practica* provides for the release of individuals from detention for giving information that led to the capture of heretics.²⁵ In fact Gui gives two variants. These pieces of evidence show how Gui was prepared to ‘turn’ individuals who were known to be heretics against their organisations by offering immunity from prosecution or a lesser punishment.

This practice was not restricted to Gui. A well-known example from Fournier’s register, which confirms that similar practices were used elsewhere, was the activities of Arnaud Sicre, summarised by James Given.²⁶ It is clear from Fournier’s text that Sicre, when he offered his services to Fournier had an expectation of receiving a benefit or immunity from the normal inquisitorial processes in the form of the return of confiscated property; he was advised on this by his brother and clearly it was an idea understood outside inquisitorial circles.²⁷ Also Sicre was given immunity from the consequences of carrying out Cathar activities, just as the formula in the *Practica* mentioned above was intended to do; he was also given money to help his activities.²⁸

²² Ibid., pp. 48-49.

²³ Ibid., p. 48: [...] *perambulentes in tenebris filii tenebrarum* [...].

²⁴ *Sententiæ*, p. 1030.

²⁵ *Practica*, pp. 42-43.

²⁶ James Given, ‘Arnaud Sicre’ in *Voices from the bench: the narratives of lesser folk in medieval trials*, ed. by Michael Goodich (New York: Palgrave Macmillan, 2006), pp. 15-41.

²⁷ Ibid., pp. 18-19 and Fournier *Register* 2:21.

²⁸ Ibid., p. 29 and 2:67-68.

Overall how often immunity from prosecution or mercy/pardon (both are called *gratia* in Latin) was used as an inducement and how instrumental the two were in capturing *perfecti* or other heretics is not known. The fact that there was more than one formula for release and that Gui gives variants suggests that their use had not been uncommon. Given the importance to the inquisition of destroying heretical networks and the *perfecti* it may well have been a significant power at the inquisitors' disposal. Gui says that '*gratia*' was essential to finding heretics and indeed that they would not be uncovered by their followers unless it was offered; but he describes this use of *gratia* as happening 'in the past: olim'.²⁹ Perhaps with a decreasing number of Cathars at the time the *Practica* was written these methods were proving less fruitful.

There is some evidence that the inquisitors used active detective methods actively to seek out suspects. The Council of Toulouse in 1229 and the Council of Béziers in 1246 (both building on the Fourth Lateran Council) provided that in suspect places bishops should appoint two or three 'lay men of good opinion: bonæ opinionis viros laicos' to root out heretics and report them to the authorities, religious or secular.³⁰ These lay men, and parish priests and friars, may have in practice been the route through which many denunciations were made. Similarly, the secular power was enjoined to swear an oath to root out heretics at the Council of Albi in 1254; the underlying duty to root out heresy had been a commonplace since 1209 or earlier.³¹ It is not clear, however, how active the secular power was in the process of detecting heresy.

The final way in which heretics were definitely caught was by the following through the networks revealed by heretics who confessed. Every confession required that the suspect tell about all the other heretics known to him or her.

Once suspects were detected it was for the secular authorities to arrest them. In some cases the inquisitors intervened with the secular power by sending out requests for people to be arrested. The *Practica* contains formulas for variously apprehending a bearer of crosses who has absconded; famous *perfecti*; and someone suspected of heresy.³² No doubt, once a suspect was identifiable or notorious, secular officials would be an effective way of apprehending them.

²⁹ *Practica*, p. 185.

³⁰ Mansi, XXIII, col. 194 and col. 691. The requirement stems from Lateran IV; see *CIC*, 2, col. 789.

³¹ *Ibid.*, col. 837.

³² *Practica*, pp. 3-5.

Pierre Autier was ‘apprehended and arrested: captus et deprehensus’ presumably by the secular authorities.³³ A reward may have been paid in his case, to judge from the formula in the *Practica*, which made one available.³⁴ There is, however, no evidence in the *culpa* that the reward was actually paid.

In Italy *De officio* contains a discussion of the period of grace and the more lenient treatment of those who come spontaneously without being summoned or accused; the issue is treated above all as a legal question.³⁵ Ugolini does not give much indication about detection methods. He does, however, describe how heretics might be detected by their conversation, attendance at heretical events or their failure to attend mass.³⁶ The emphasis in Italy, to judge from the manuals, seems to have been on collective action by the commune. *De officio* describes ‘the office of those bearing the cross: officium cruce signati’, that is those who are ‘[...] touched by the zeal of Faith to root out heresy [...]: [...] tacti zelo fidei ad extirpandam pravitatem’. These clearly had a role in detecting heretics, and were offered indulgences equivalent to those offered to crusaders for their pains.³⁷ The secular power is also required to get ‘three or more men of good testimony: tres aut plures boni testimonii viros’ or the whole neighbourhood to denounce heretics, their property and their hiding-places and anyone who departed from the customs of the faithful.³⁸ The officials in charge of communes are enjoined to rid their territories of heresy and to keep records of those accused of heresy.³⁹

There is less information in the *Directorium* and other sources about how heretic suspects might be detected, or rather the stress is on the use of the period of grace. There is no mention of any other method. Eymerich assumes that the inquisitor has come to some new place and, having carried out formalities with the local official in charge, he is to announce the *sermo generalis*, the period of grace and the availability of indulgences for those helping the inquisition. Statements advising the population to reveal what they know about heresy within a set period are read out in Latin and the vernacular. They are enjoined that:

³³ *Sententiæ*, p. 538.

³⁴ *Practica*, p. 4.

³⁵ *De officio*, pp. 77-80.

³⁶ *Tractatus*, pp. 27-29.

³⁷ *De officio*, p. 17.

³⁸ *Ibid.*, p. 21.

³⁹ *Ibid.*, p. 21 and p. 23.

[...] they should reveal to us if they know, have seen or heard that any person is a heretic or reported or suspected of heresy or speaking against the articles of Faith or the sacraments of the Church or in any other way in life or morals differing from the common ways of the faithful or sacrificing to demons by invoking them'.⁴⁰

This wording dates back in part to Lateran IV which required people simply to report heretics, those celebrating in hidden meetings and those 'differing from the common ways of the faithful'.⁴¹ Eymerich made additions to this wording, compared with Lateran IV, in line with the changes in his thinking on heresy. He is more precise in asking for 'those reported or suspected of heresy'; he seeks those 'speaking against the articles of Faith'; and he includes 'those sacrificing to demons by invoking them and those with heretical books.' In short he has expanded the invitation to cover all the categories of heretic defined in the *Directorium*. These categories are more extensive than in Gui, Ugolini or *De officio*, who do not mention explicitly those sacrificing to demons or those possessing heretical books. The amendments to the wording stemming from Lateran IV show that Eymerich was well aware of the significance and novelty of the changes he was promoting to the inquisition's jurisdiction, which are discussed in Chapter V.

Eymerich then suggests that the inquisitor briefly explain 'the aforesaid statement reducing it to certain points so that it fixes in the minds of the people'; set out the indulgences for those attending *sermones* and helping the inquisitors; and describe the period of grace for those coming forward.⁴² There is no set amount of pardon promised but high expectations are held out to those spontaneously confessing their guilt.⁴³ There then follow stage directions about what the inquisitor does next. The official statement is fixed in the cathedral and the inquisitor waits for witnesses and the guilty to come to him. Two time limits are set; one for heretics, *credentes* and *defensores* to confess, the other for everyone else to denounce suspects. The inquisitor is to remain personally at home so that he can be found by either group.⁴⁴ Eymerich

⁴⁰ *Directorium*, p. 280, BM, fol. CXX^r: '[...] nobis revelent, si sciverint, viderint, vel audierint aliquam personam esse hæreticam, diffamatam de hæresi, seu suspectam, aut loquentem contra articulos fidei, vel ecclesiæ sacramenta, aut alias vita, et moribus a communi conversatione fidelium diffidentem, seu dæmonibus invocando sacrificantem'.

⁴¹ *CIC*, 2, col. 789.

⁴² *Directorium*, p. 281, BM, fol. CXX^v: '[...] sententiam antedictam breviter explicare ad certa puncta eam reducendo, ut melius populi memoriæ infigatur [...]']

⁴³ *Ibid.*, p. 281, fol. CXX^v.

⁴⁴ *Ibid.*, p. 281, fols CXX^v-CXXI^f.

states that those coming spontaneously should be dealt with ‘more leniently: mitius’. This is followed by a section which explains how those denouncing heretics should be handled. In particular if there are too many, testimony should be taken on the spot and names written down for examination later. Eymerich advises that this information should be kept secret by the inquisitor in ‘a little book’ arranged according to dioceses.⁴⁵

There were some differences between Gui’s and Eymerich’s methods of detection. Eymerich saw the inquisition as fundamentally a visitation; he was not sedentary like Gui. That in itself must have made the formal offer of the period of grace a more usable device, if only because the offer would have been novel in each place visited. His wide invitation to denounce might well have inspired a number of denunciations, particularly in Aragon where religious differences were strong; Eymerich might not have needed the additional inducements which Gui used to secure evidence. Certainly there is no indication of inducements for informants beyond the grace promised at the announcement. Eymerich does note, however, that the inquisitor has the right to have armed men to catch heretics and that he can call on the secular arm to do the same thing.⁴⁶ In addition the prosecution of some of Eymerich’s suspects like Llull was probably the result of Eymerich’s wider intellectual interests and knowledge of Aragonese society rather than a specific denunciation. Eymerich’s approach to detection seems to have been more wide-ranging in the types of heretics sought than Gui’s, in line with Eymerich’s concept of the inquisition policing all threats against the Church.

Interrogation in Gui

The detection of suspects was only the first part of the process and the inquisitors had then to secure convictions through interrogation, which was at the heart of an inquisition. There would of course be some who confessed readily on questioning because of strong belief. Pierre Guiraud seems to have maintained his Beguin opinions from the start and refused to swear an oath or abjure.⁴⁷ He defended his errors ‘boldly and pertinaciously; procaciter et pertinaciter.’⁴⁸ Modern experience suggests that there might be a good proportion of voluntary confessions. Gisli Gudjonsson shows that, while there are many methodological issues in calculating the

⁴⁵ Ibid., p. 282, fols CXXI^r - CXXI^v.

⁴⁶ Ibid., p. 370, fol. CLIX^r.

⁴⁷ *Sententiae*, pp. 1620-34.

⁴⁸ Ibid, p. 1630.

proportion of those who make damaging admissions during custodial interrogation, the proportion of those who do so is substantial, between 40% and 75%.⁴⁹ Of course this cannot necessarily be translated to a medieval context. But it is reasonable to assume that many who faced lesser sentences might be prepared to confess, even without torture, to secure a lighter sentence, through calculation, fear or even remorse. Equally those who might expect a severe sentence or whose beliefs allowed or encouraged them to dissemble (e.g. the Waldensians, if the inquisitors are to be believed) would perhaps not admit their actions so readily.⁵⁰ In many cases therefore interrogation methods, some forceful, some more sophisticated, had to be used to elicit the true beliefs of suspects.

The law on interrogating suspects was much the same in Gui's and Eymerich's times. *Multorum querela/Nolentes* imposed some restrictions after 1317 but these were in place when the *Practica* was written. The important question for this thesis is how much interrogation methods can be seen to have changed in the 14th century if the evidence from the *Practica* and *Directorium* and evidence from the *Tractatus* and *De officio* are compared.

While the *Directorium* contains detailed consideration of the levels of proof needed to convict heretics (and of the interrogation techniques to be used to secure that proof) Gui does not discuss levels of proof; his primary focus was on securing an admission and abjuration, which would of course constituted full proof. There seem to have been three reasons why Gui concentrated on obtaining confessions. First, the inquisition was part of the inquisitors' responsibility as Dominicans for the 'care of souls: cura animarum' or saving souls. As discussed above in relation to Annie Casenave's work the inquisition was part penitential and part punitive. The primary necessity for penitence was confession in the religious sense. Seeking confession of sins was a part of normal Dominican practice, as indeed was the imposition of penance. The carrying of crosses and imprisonment were harsh, but they had a penitential role as well as a punitive one. Gui's *Sententiæ* show that many had the carrying of crosses remitted and many were released from prison after a suitable period. The only wholly punitive penalty, burning, was (formally) outside the inquisitors' control, imposed by the secular arm, not by the Church. Penitence required above all a recognition of guilt, an admission, which would also resolve the criminal element. In many cases this admission would

⁴⁹ Gisli Gudjonsson, *The Psychology of Interrogations, Confessions and Testimony* (New York: Wiley-Blackwell, 1992), pp. 50-54.

⁵⁰ *Practica*, pp. 252-56.

lead directly to abjuration, and thereby become a full confession in the religious sense. A full religious confession required remorse and a wish not to repeat the sin. These might be feigned but the Church could at least gain outward conformity through abjuration. A few might, however, admit their guilt but not be prepared to abjure; they would be dealt with purely punitively by release to the secular arm, but the possibility of completing a religious confession would remain open until the very last minute.

The penitential background to Gui's thinking is evident. When Gui calls an inquisitor 'a prudent doctor of souls' he is drawing on penitential vocabulary going back to Burchard of Worms.⁵¹ When he talks of 'the Lord willing, drawing out the twisted snake from the dregs and abyss of errors with a midwife's hand', he is drawing on Raymond de Peñafort's *Summa de Penitentia* as well as indirectly the Bible.⁵² Christina Caldwell Ames has sketched out in detail the links between inquisition and Dominican penitential thinking.⁵³ It should be noted that underlying this approach was a belief that penitence was possible, that each heretic retained free will.

The second reason for concentrating on admissions was that they had the merit of being clear and unambiguous; other proof would tend to be less satisfactory. Admission was the 'queen of proofs: regina probationum.' Eyewitnesses, for example, would not always be available, and eyewitnesses could only testify to actions and words, not directly to belief. Above all, a voluntary admission/confession would command public confidence in the inquisitors, which other forms of proof might not. Witness evidence could be suspect; and if the admission was accompanied by abjuration there was considerable benefit for the Faith in heresy being seen to be defeated.

However, admissions were not always forthcoming. The *Practica*, quoting the Council of Narbonne, makes it clear that if there was proof by witnesses or other means that an individual

⁵¹Ibid., p.237: 'prudens medicus animarum'.

⁵² Ibid., p. 237 : '[...] ut favente Domino, de sentina et abyssio errorum obstetricante manu educatur coluber tortuosus.' St. Raymond de Peñafort, *Summa de Pœnitentia et Matrimonio*, Rome (1603), p. 463, contains a phrase similar to Gui's. Cf Job 26:13: 'spiritus eius ornavit caelos et obstetricante manu eius eductus est coluber tortuosus: By his spirit he hath garnished the heavens; his hand hath formed the crooked serpent.

⁵³ Caldwell Ames, 'Righteous Persecution', pp. 137-81.

was a heretic but he refused to confess, he could be considered a heretic.⁵⁴ There were other ways of convicting those who did not cooperate. Formulas contained in Part 3 provide that, when a sentence of excommunication is not purged, the fugitive is as a result declared a heretic, a provision which is also discussed in Part 4.⁵⁵ The power to declare someone a heretic because he or she fails to purge an excommunication given for failing to obey an inquisitorial summons stemmed from Gregory IX's *Excommunicamus* and Alexander IV's *Cum contumacia*.⁵⁶ The failure to purge demonstrated that the suspect was a heretic.

This use of excommunication could be quite complex. Gui discusses how to deal with recalcitrant heretics in the *Practica* in a discussion on interrogating Beguins who refused to swear the inquisition oath to tell the truth, or wished to make their oath with conditions.⁵⁷ In such cases Gui recommends using excommunication to establish guilt in a way that played into the Beguins beliefs. First there was a demand in writing that the suspect Beguin swear to tell the truth at a fixed time in a precise and simple way; if he then incurred excommunication by refusing he was to be asked, assuming he continued to refuse to testify over several days, whether he considered himself bound by that excommunication. If he stated that he did not consider himself excommunicated, he could then be considered a heretic.⁵⁸ This was done '[...]' for convincing (others) of his malice, so that his error may be more apparent and for justifying the trial against him [...].⁵⁹ The Beguins' position inside the Church, unlike the Cathars and Waldensians, made these tactics more viable since they had not rejected the concept of excommunication. Gui was using the inquisitorial system in a way that achieved convictions but also presented a rational and defensible position externally.

Henry Ansgar Kelly has recently questioned Gui's practice described above, and William of Paris's conviction of Marguerite Porète, on the basis that being considered a heretic for non-refusal to swear an oath required a period of a year.⁶⁰ There is of course a clear provision that fugitives who fail to appear for a year after being summoned should be considered heretics in

⁵⁴ *Practica*, p. 226; *Texte zur Inquisition*, p. 66.

⁵⁵ *Ibid.*, pp.109-11 and pp.177-78 respectively.

⁵⁶ *CIC*, 2, cols 787-88 and col. 1071 respectively.

⁵⁷ *Practica*, pp. 282-84.

⁵⁸ *Ibid.*, p. 284.

⁵⁹ *Ibid.*, p. 284: '[...]' ad convincendum ejus maliciam, ut magis appareat error ejus et ad justificandum processum contra talem [...].

⁶⁰ Kelly, p. 968.

Excommunicamus and *Cum contumacia*.⁶¹ But fugitives are not the issue here. The Council of Narbonne provision referred to above makes it clear that anyone (presumably in custody although that is unstated) against whom there is sufficient proof of heresy and who denies it can be immediately convicted.⁶² It might be thought that someone who fails to swear an oath to tell the truth is not obviously denying the truth; but Gui's logic is that by refusing to swear, incurring excommunication but not considering oneself bound by that excommunication, a suspect had given sufficient evidence of heresy to be considered a heretic. The phrase Gui uses is that the individual is '[...] in contempt of the keys of the Church [...]: [...] contemptor clavium Ecclesie [...]' and as such, if he is pertinacious he is to be considered a heretic.⁶³ Kelly sees this as extending the provisions of *Excommunicamus* and *Cum Contumacia*.⁶⁴ But Gui was surely relying on the Council of Narbonne provision. There is nevertheless a certain contestability about Gui's tactics, which seem to have been developed expressly for Beguins, and Gui suggests, in line with his continual desire to justify his sentences, that 'to justify the trial against such a person: ad justificandum processum contra talem' the suspect can be excommunicated and told that if he pertinaciously refuses to abjure for a year he can be considered a heretic.⁶⁵ But this is suggested as a way of reinforcing the conviction, not a legal necessity. The Beguins presented a peculiar difficulty by refusing to swear. Gui could see that a conviction was possible simply on the basis of a refusal to swear and rejection of excommunication; but his political instinct was to seek make the process of conviction as watertight and defensible as possible. Kelly is therefore right to point to spot some hesitancy over this point; but we are perhaps not dealing with outright illegality (there can now be no certainty about what might have been declared illegal in the 14th century) but a practice which might conceivably have proved difficult for the inquisition and therefore had to be handled carefully. One might speculate that where there was urgency for some reason to secure a conviction, this expedient might have been adopted. In fact William of Paris did give Marguerite Porète a year of excommunication before declaring her a heretic; he, like Gui, as Sean Field stresses, was a cautious man.

⁶¹ *CIC*, 2, cols 787-88 and col. 1071 respectively.

⁶² *Texte zur Inquisition*, pp.66-67.

⁶³ *Practica*, p. 284 '[] in quo quis pertinaciter perseverans hereticus est censendus []: [] someone remaining pertinaciously in this [i.e.being in contempt of the Church] is to be considered a heretic [].'

⁶⁴ Kelly, p. 968.

⁶⁵ *Practica*, p. 284.

It was not only the Beguins who refused to swear an oath to tell the truth. In the *Sententiae Ermenie*, widow of Jean Odet, a Waldensian, refused to swear an oath to testify and was eventually condemned as a heretic because ‘she remained in her pertinacity: remansit in sua pertinacia.’⁶⁶ A similar process happened in the case of Jean de Vienne and his wife Huguette, Waldensians who refused to be sworn to testify.⁶⁷ The sentence records carefully that Jean was informed of the consequences of their refusal; Gui was again justifying his decision to those observing.⁶⁸ It must be assumed that in these cases a year elapsed and that Gui did not use the method he used with the Beguins. The discussion in the *Practica* about how to deal with those who refuse to confess raises the question of torture, to which we now turn.⁶⁹

Torture in Gui

The purpose of torture was in the words of Gandinus, the writer of the standard work on torture in criminal proceedings: ‘to make the truth pour forth through torments and bodily pain: ad eruendam veritatem per tormenta et corporis dolorem’.⁷⁰ It became more of a feature of criminal legal proceedings in the 13th century. Edward Peters’ work, *Torture*, argues that in the absence of incontrovertible eye-witness evidence for a crime torture was a way of testing guilt in cases where by the standards of the time evidence was persuasive but not conclusive.⁷¹ Walter Ullman also points to the fact that torture was a regular feature of Roman law and that, given the high regard for Roman law in the 13th century, it was inevitable that this feature was adopted.⁷² This thesis argues that, based on a comparison of Eymerich with earlier works, torture seems to have become increasingly a defining and central feature of the inquisitorial interrogation process in the 14th century; and that this development was associated with changes in inquisitors’ views of suspects and the nature of heretical crime, which changed to encompass crimes of action as well as crimes of belief.

⁶⁶ *Sententiae*, pp. 1586-91; quote p. 1590.

⁶⁷ *Ibid.*, pp. 1264 -74.

⁶⁸ *Ibid.*, p. 1268.

⁶⁹ *Ibid.*, pp. 282-84.

⁷⁰ Hermann Kantorowicz, *Albertus Gandinus und das Strafrecht der Scholastik* (Berlin: 1907) which contains an edition of Gandinus’ *Tractatus de maleficiis*, p. 156, ‘Gandinus’.

⁷¹ Edward Peters, *Torture* (Philadelphia: University of Pennsylvania Press, 1985).

⁷² Walter Ullmann, ‘Reflections on Medieval Torture’ in *The Juridical Review*, 56 (1944), 123-37, p.123.

It cannot be known how effective torture was in eliciting facts or admissions to actions; how often it produced false admissions; and how it may have influenced suspects' behaviour before torture took place. There is some testimony from victims of torture during the Templars' affair that torture impelled them to make false admissions but they were trying, by making that statement, to prove those admissions false.⁷³ Undoubtedly torture would have elicited admissions, true or false, on many occasions; but equally Eymerich points to cases where torture was resisted.⁷⁴ As to the reliability of any facts or admissions established by torture there were certainly concerns. Azo, an early 13th century commentator on torture, classically said that torture was a 'fragile thing' and the results could not always be trusted.⁷⁵ Gandinus stated that torture only provided a 'half proof: *sempi plana probatio*', and therefore insufficient to convict of itself.⁷⁶ The results of torture always had to be confirmed by a further interrogation away from the place of torture. As far as the *inquisitio heretice pravitatis* was concerned, torture was not used to achieve an abjuration or a confession in the religious sense, although considerable psychological pressure might be applied and of course an admission of facts made an abjuration much more likely. But penitence had finally to be a matter of individual choice and could not be coerced. Torture could, however, help establish facts.

There seems in practice to have been a good deal of commonality at least at the theoretical level between temporal and inquisitorial use of torture. The schema developed by Eymerich for the use of torture is clearly based in part on the models developed by temporal commentators; he draws on Azo in particular to justify the use of torture when there are two 'vehement proofs; *vehementia indicia*'.⁷⁷

Gui's use of torture as an inquisitorial tool is not easy to establish conclusively. The *Practica* only makes two mentions of torture.⁷⁸ In the first Gui states the legal position that inquisitors could use torture as long as there was 'no damage to limb or danger of death: *citra membri diminutionem et mortis periculum*', a formula which stems from *Ad extirpanda*.⁷⁹ Gui gives

⁷³ Georges Lizerand, *Le Dossier de l'Affaire des Templiers* (Paris: H. Champion, 1923), pp. 156-58 and p. 180.

⁷⁴ *Directorium*, p. 314.

⁷⁵ Azo, *Summa codicis* (Venice: Speyer, 1482), liber lx – *De questionibus*: 'res fragilis'.

⁷⁶ Gandinus, p. 166.

⁷⁷ *Directorium*, p. 373.

⁷⁸ *Practica*, pp.218-19 and p.284.

⁷⁹ *Ibid.*, p.313. This contains the relevant part of the text of *Ad extirpanda*.

some general indications about when it might be used, that is in order that ‘the thieves and murderers of souls: latrones et homicide animarum’ should ‘confess their errors expressly’ and ‘accuse other heretics, their goods, their believers, receivers and defenders’. But this is the wording of *Ad extirpanda*, not Gui’s own thoughts. The second (brief) reference indicates circumstances in which torture might be used. Gui is discussing Beguins who refuse to cooperate by taking an oath to testify about their activities and beliefs which has been discussed above.⁸⁰ His primary method is excommunication but he does suggest other means that might be employed including restrictions in diet, the use of prison and chains ‘or even being tortured on the advice of (legal) experts; vel questionari de consilio peritorum’.⁸¹ It might be argued that this advice should be seen as restricted to Beguin cases, but it is more likely that it reflects a view that torture was a last resort to be used during the inquisitors’ interrogation only in the most difficult cases.

The central (and well-known) passages on how to obtain confessions, at the beginning of Part 5, neither confirm nor deny the use of torture.⁸² Gui was pragmatic about methods; he says: ‘the same method of interrogating, inquiring and examining is not to be used for all heretics of diverse sects.’⁸³ Eymerich, who integrated torture fully and explicitly into his interrogation regime, re-used Gui’s wording on interrogation in the *Directorium*, with a few changes; he clearly saw Gui’s wording as consistent with the use of torture, about which he was entirely open.⁸⁴

In one area Gui is as open as Eymerich about torture. In his memorandum to the Pope complaining about *Multorum querela* and *Nolentes*, Gui discussed the use of torture explicitly, and without any indication that it might be a last resort; this has already been touched on in Chapter III.⁸⁵ Gui was arguing against the system instituted by *Multorum querela*, under which an inquisitor and the relevant bishop had to agree to the use of torture in a particular case. Gui’s argument, which is still advanced nowadays for the use of torture (the ‘ticking bomb’ scenario), was that often the messengers and special guides of heretics were caught, who could most

⁸⁰ Ibid., pp. 282-84.

⁸¹ Ibid., p. 284.

⁸² Ibid., pp. 235-37.

⁸³ Ibid., pp. 236-37: ‘[...] nec ad omnes hereticos diversarum sectarum idem modus interrogandi, inquirendi et examinandi est servandus [...]’.

⁸⁴ *Directorium*, pp.288-89, BM, fols CXXIII^r - CXXIII^v.

⁸⁵ BNF, Doat XXX, fols100^r–101^v.

easily lead to heretics if they wished to reveal where they were.⁸⁶ They never wished to do this spontaneously but delayed as much as they could so that ‘heretics who are somewhere in a nearby place can get away through this time delay: hæretici qui aliquando sunt in propinquo loco ex ipsa mora temporis se valeant absentare’. In such cases the fear of torture often led messengers to reveal heretics. The requirement to consult a bishop would lead to injurious delay. Distances were often quite great and inquisitors worked in remote locations. Torture could be used for lesser crimes than heresy, and it was illogical that it should be effectively prevented in heresy cases.⁸⁷ The argument here is pragmatic; torture should be used readily where it can give results, and breaking up Cathar and Waldensian networks was a key inquisition aim. This immediate torture of suspects who are likely to have useful information is directly attested in the 1272-80 register.⁸⁸ There is every reason to believe from Gui’s memorandum that he authorised torture readily in such cases, which is the first limb of the purposes for which *Ad extirpanda* permits the use of torture. Indeed the broadly contemporary *De officio* goes a little further by saying that in line with *Ad extirpanda* the secular authorities are required (‘teneantur’) to torture captured heretics to get the names and hiding-places of other heretics.⁸⁹

However, it is far less clear how in practice Gui used torture, once suspects were in the inquisitor’s custody and subject to inquisitorial interrogation. The reference to torture in connection with the Beguins presents it as a last expedient for the most contumacious suspects against whom there is good evidence and only if legal experts agree, but elsewhere Gui also sees lengthy imprisonment as the way of breaking down suspects.⁹⁰ The *Sententiæ* offers some tentative evidence. With one exception, Gui makes no direct mention of torture in the *Sententiæ*. This certainly does not prove that torture occurred on only one occasion; Gui delivered the judgment against Bernard Délicieux, who is known to have been tortured, but makes no mention of that fact in the judgment.⁹¹ Although Délicieux was not strictly an

⁸⁶ Alan Dershowitz published an article (Alan Dershowitz, ‘Want to torture? Get a warrant’, *San Francisco Chronicle*, 22/01/2002) advocating the legally regulated use of torture when terrorists had information about a bomb about to explode which the authorities might use save lives. This argument has divided opinion; but it remains the argument which is most commonly advanced in favour of torture.

⁸⁷ BNF, Doat XXX, fols 100^r – 101^v.

⁸⁸ *Inquisition and Heretics in Thirteenth-Century Languedoc*, pp. 346-47 and pp. 414-15.

⁸⁹ *De officio*, p. 23.

⁹⁰ *Practica*, p. 284 and p. 302 respectively.

⁹¹ *Processus*, p. 143; and *Sententiæ*, pp. 1184-1202.

inquisition case (he was charged with crimes other than heresy and tried by bishops not inquisitors), it seems reasonable to conclude from this that Gui and others at the time saw no need to mention the use of torture in a judgment when it had taken place. The absence of any mention of torture in every case in the *Sententiæ* except one therefore does not disprove the use of torture in other cases. What is clear from the *Sententiæ* is that in some, but not all, cases the interrogation process had at some point reached an *impasse*. Much the same wording is used throughout the *Sententiæ* to note this development usually including the formula ‘*negavit veritatem*’ with a record of the number of occasions. The cases of Ponce Amiel and Philippa de Tounis, Cathar *relapsi* sentenced on 3 March 1308, both contain this formula.⁹² It is repeated in the case of Pierre Aimon condemned on 12 September 1322 to imprisonment.⁹³ Peter Biller has linked this formula to the stubbornness of Waldensians and has argued that this is evidence they presented a particular problem for Gui. He points to the fact that the form of words is repeated in nearly every one of 91 Waldensian sentences.⁹⁴ In some cases additional formulas such as ‘*fuit difficilis ad veritatem confitendum: he was difficult in confessing the truth*’ were used.⁹⁵ Biller goes on to make a link between this difficulty and the section on the stubbornness of the Waldensians in Part 5 of the *Practica*.

At this stage, faced with a recalcitrant suspect, Gui would possibly have considered, and perhaps authorised, torture if the legal experts agreed; but equally that he might have let the suspect stew further in the inquisitorial prison. It is impossible to be sure. But *relapsi* like Ponce Amiel and Philippa de Tounis would have had little incentive to confess, given the almost inevitable punishment, however unpleasant their conditions of custody. Torture may have been the only way of possibly resolving their cases.

Another case that hints at the use of torture is that of Jean de la Salvetat, who was convicted of bearing false witness by falsely accusing another of heresy and condemned to imprisonment and being exposed on a scaffold with red tongues. Gui says that he had been interrogated ‘by others on our instruction: *per alios de mandato nostro*’.⁹⁶ This may well be a veiled reference to the torturers. This case was a purely criminal matter, albeit one ancillary to heresy and

⁹² *Sententiæ*, p. 184 and p. 186.

⁹³ *Ibid.*, p. 1494.

⁹⁴ Biller, ‘Umberto Eco et les interrogations de Bernard Gui’, pp. 257-69 and pp. 264-65 in particular.

⁹⁵ *Ibid.*, p. 265 and *Sententiæ*, p. 1470.

⁹⁶ *Sententiæ*, p. 854.

therefore triable by the inquisitors, and the evidence is that de la Salvetat resisted for some time. Gui may have felt more willing in such a case to hint in public at the use of torture when a possible injustice was being prevented and penitence for heresy was not an issue. There is unusually evidence in the *Directorium* that Gui used torture in the similar false witness case of Ponce Arnaud. In Quæstio LXXIII in Part 3 of the *Directorium* Eymerich deals with the question whether witnesses can be tortured and those who bear false witness can be punished; it is clear from the context that he means witnesses in the modern sense. The last point he covers is whether a witness can be tortured in respect of a crime of false witness, to which he answers yes because it is in effect a new case in which he is the suspect. He then quotes the example of Arnaud seemingly as an example of this use of torture. He says:

Et de facto hic casus accidit Tolosæ Anno domini MCCCXII, ut vidi in sententia contineri: nam pater deposuerat contra filium crimen hæreticæ pravitatis, et postmodum revocavit: And in fact this case happened in Toulouse in the year of the Lord 1312, as I have seen contained in a judgment. For a father made a case of the crime of heretical depravity against his son and afterwards retracted.⁹⁷

Arnaud's confession was said in the *Sententiæ* to have been given 'spontaneously, freely and without violence: sponte, libere et sine violencia', but that phrase should be taken as simply meaning that the final confession was given outside the torture chamber.⁹⁸ It is interesting to note proof that Eymerich read Gui's *Sententiæ*. It is also certain that he read the *Practica*, since some sections of the *Directorium* are drawn from it.

The one case in which Gui does explicitly mention torture in the *Sententiæ* is that of Guillaume Cavalier released on 30 September 1319 to the secular arm. Gui makes it clear, at some length, that Cavalier's admission was not obtained while he was being tortured; he was not 'in torture or torment' when he confessed (the Latin reads 'non existens', which implies something like 'not actually at that moment').⁹⁹ In fact Cavalier was interrogated by Bernard de Castanet and

⁹⁷ *Directorium*, p. 378, BM, fol. CLXII; and *Sententiæ*, pp. 552-58.

⁹⁸ *Sententiæ*, p. 554.

⁹⁹ *Ibid.*, p. 1178: 'He confessed the aforesaid when brought in court before the inquisitor and notary and religious witnesses (i.e. friars, probably Dominicans), when he was not in torture or torment: Predicta vero confessus fuit in iudicio coram inquisitore et notario et religiosis testibus constitutus, non existens in questionibus seu tormentis'.

Gui says that the admission was three days removed from the torture.¹⁰⁰ Castanet's excessive use of torture had been one of the causes of the '*rabies Carcassonnensis*'. Gui accepts that torture had taken place but argues that the correct separation between the torture and the confirmatory confession away from the torture chamber after time had elapsed had been observed and that therefore the confession was valid. This shows familiarity with the use of torture as an interrogation technique and that Gui was acquainted with the sort of rules prescribed by canon lawyers about the use of torture.

Why was Gui (and others, as is shown below) reticent about mentioning torture in public, if indeed he used torture? The lingering impact of the troubles at Carcassonne and Albi might have played a part; but those troubles had a wider cause. The complaints against Bernard de Castanet went much further than the simple use of torture; Bernard Délicieux aroused the people of Carcassonne with a claim that they were collectively abjuring, and thereby running the risk of being considered *relapsi*, by their agreement with d'Ablis.¹⁰¹ Another explanation is that torture was a commonplace, certainly in secular trials by this time, and there was felt to be no need to refer to it. Again in the one case where Gui does mention torture in the *Sententiæ* he defends its use on the basis that the confession was given again away from the torture chamber, that is the torture had been correctly applied. That line of argument would not realistically have been used to an audience which might be outraged by the use of torture. Nor is it credible that the Languedoc public would have been unaware that torture was part of the inquisition process, if it were taking place. All this points to a degree of public understanding and acceptance of the role of torture in criminal/heresy matters.

Another reason why Gui may have felt no need to mention torture is that the process of inquisition was in part penitential. Those who abjured did so for the salvation of their souls, and their abjuration was at the heart of the ceremony or theatre of the *sermones generales*. How heretics came to the point of deciding to confess and abjure did not go to the essence of the matter. Torture was simply one way of getting at facts (as was interrogation). Abjurations, which belonged in large part to the penitential part of the interrogation process, were assumed

¹⁰⁰ Ibid., p. 1178: '[...] set ab ipsis tam loco quam ministris, quam etiam tempore post tres videlicet dies penitus elongatus [...]: [...] but from the place, agents and time it seems fully three days removed [...]'. This phrase only makes sense if it is assumed that he is talking about the place, agents and time 'of torture'.

¹⁰¹ Alan Friedlander, *The Hammer of the Inquisitors: Brother Bernard Délicieux and the struggle against the inquisition in fourteenth-century France* (Leiden: Brill, 2000), p. 124.

to be freely made and were useless if they were not sincere. Any mention of torture would have confused matters. In any case there were safeguards; admissions were recorded after torture had taken place, at which time they were considered to be freely given.

It was inherent in the concept of canonically sanctioned torture that it should be governed by rules and guidelines. The main rule was that torture should be ‘*citra membri diminutionem et mortis periculum*: without permanent damage to limb or risk of death’, which is contained in the basic canon law, *Ad extirpanda*.¹⁰² But lawyers went further. The best authorities at the time were clear that torture could not be used where there was no basis for doing so. Albertus Gandinus made it clear in the *Tractatus de maleficiis* that ‘without proofs and without stubbornness: sine indiciis et sine presumptionibus’ no-one was to be tortured. He also says (using the favourite medieval device of a *quaestio*):

Sed quero, que et qualia debeant esse ista indicia, que debent precedere, ut quis possit torqueri? Respondeo, non possunt certo modo dici vel ostendi [...]: But I ask what and of what sort should these proofs be, which must be in place so that someone can be tortured? I reply that they cannot be definitely stated or shown [...].¹⁰³

The case of the Templars is *sui generis*, not least because of the close involvement of the French Crown. But there are features of the documents that survive which may shed light on practice in the Languedoc; and the case was current when Gui first took up his post as inquisitor. ‘De Modo Interrogandi: the Method of Interrogating’ is the title of the 1309 instructions issued by the Bishop of Paris on how to interrogate those Templars who at that point had continued to deny the alleged sacrilegious practices of the Templar Order.¹⁰⁴ This document was issued in the context of the papal inquiry into the affair in 1309 and Barber speculates that it may have been an attempt to construct a uniform procedure in various dioceses.¹⁰⁵ The manuscript comes from a collection held by the Bishop of Angers, showing that it had a wide distribution. It is both an *interrogatoria* (a list of question to aid interrogation, which are discussed below) and precise instructions on how confessions should be obtained. There are both physical

¹⁰² *Practica*, p. 313.

¹⁰³ Gandinus, p.150.

¹⁰⁴ Lizerand, pp. 140-44.

¹⁰⁵ Malcolm Barber, *The Trial of the Templars* (Cambridge: Cambridge University Press, 1978), p. 114.

inducements starting with a 'strict food regime: *pastu stricto*', and then, if that does not work, 'torture, even severe: *tormentis etiam gravibus*'.¹⁰⁶ But there are other pressures including sharing the confessions of Molay and other dignitaries to undermine their resolve; selecting priests to give confession who will pressure them 'to tell the truth'; and holding out the prospect of food and a resolution of the case through absolution and penance.¹⁰⁷ The ecclesiastical authorities were at the time endeavouring to find a way out of the Templar crisis which did not wholly surrender their prerogative to Philippe IV but which did not disregard the serious allegations which had been made. There is therefore reason to think that the document represented something like normal practice in investigating heresy; certainly it is unlikely that something which radically changed Church practice of the time would have been issued. It could have been needed because Templar interrogations were taking place in areas unaccustomed to dealing with heretics. There is no direct evidence that Gui used a scheme like this in Toulouse to obtain confessions but such a scheme would have been consistent with his statements about using a variety of methods and the fact that some of his suspects – to judge from the *Sententiæ* – took several formal sessions to confess.

Confessions of Templars usually end with the statement by the suspect that no torture was used to obtain the confession which was given and that the admission was the pure and whole truth. In some cases at least the use of torture was confirmed by further evidence despite this formula, which cannot therefore be used as any sort of reliable evidence that torture did not take place. The formula was used at the end of Jacques de Molay's initial confession, which contributed substantially to the Templars' downfall, which leaves open whether he was tortured.¹⁰⁸ As Barber says Molay may have been tortured but he might also have been worn down by deprivation and other forms of pressure.¹⁰⁹

There is no internal evidence of the use of torture by d'Ablis in his register and at the end of each confession it is made clear that no torture has been used.¹¹⁰ But given that it was expected

¹⁰⁶ *Ibid.*, p. 142.

¹⁰⁷ *Ibid.*, p. 142-44.

¹⁰⁸ *Ibid.*, p. 36.

¹⁰⁹ *Ibid.*, pp. 64-65.

¹¹⁰ Examples are in '*L'inquisiteur Geoffroy d'Ablis et les cathares du comté de Foix : (1308-1309)*' texte édité, traduit et annoté par Annette Pales-Gobilliard (Paris: Editions du Centre national de la recherche scientifique, 1984), pp. 132 and p. 160.

that any confession would be repeated away from the torture chamber, this is far from conclusive evidence one way or another.

The historiography on the use of torture, at least as far as Gui is concerned, is, like the evidence, inconclusive. Lea believed that Gui ‘too emphatically expressed his sense of the utility of torture’ ‘to doubt his readiness in its employment’.¹¹¹ Jacques Paul talks of Gui using torture ‘moderately’.¹¹² Jean Duvernoy perhaps thought that Gui tortured rather less and says in his introduction to his edition of the Fournier Register that he cannot see why, if Gui mentions one case of torture (Cavalier) he should not talk of the others (the view here is that the Cavalier case was exceptional in that its justification required the use of torture).¹¹³

What seems most likely is that Gui expected suspects who might know the whereabouts of other heretics to be tortured by the secular arm routinely and immediately on arrest to find out where those other heretics might be hidden. As for torture during the interrogation by the inquisitors, in some cases Gui, came to a point where torture was the only remaining option. This would probably only be after long periods of imprisonment (his preferred method) had been tried and the advice of legal experts sought.¹¹⁴ This decision would depend on what the interrogation so far had established, any other evidence available and how effective incarceration and other means were in loosening the suspect’s tongue. It is certainly the view of James Given that imprisonment was Gui’s prime method.¹¹⁵ Gui, unlike Eymerich, does not set down any automatic formula for the use of torture based on (e.g.) the number of proofs but rather sees it as a last expedient when all else fails.¹¹⁶ That pragmatism would be consistent with the advice from the Council of Narbonne and from Gandinus, who would have reflected current thinking. But he may well have moved more quickly to torture in cases of false witness where there would be injustice to a third party if the case was not resolved promptly and where there was no penitential element. It could be used to establish facts, the truth, but could not change hearts. The justification for the use of torture in *Ad extirpanda* was based on

¹¹¹ Lea, *A History of the Inquisition in the Middle Ages*, Vol. I, p. 424.

¹¹² Paul, p.288.

¹¹³ *Fournier Register*, II, p. 20 footnote 42.

¹¹⁴ *Practica*, p. 302 and p. 284.

¹¹⁵ Given, *Inquisition and Medieval Society*, pp. 52-65.

¹¹⁶ Gandinus, p. 159 : Sed quero, que et qualia debeant esse ista indicia, que debent precedere, ut quis possit torqueri? Respondeo, non possunt certo modo dici vel ostendi [...].

criminal/punitive concerns, not on penitential.¹¹⁷ In short Gui may well have followed procedures similar to those prescribed by the Bishop of Paris for use against Templars, a practice which fits well with the philosophy in the *Practica* and in particular with the wording used when he discusses recalcitrant Beguins.¹¹⁸

Italian Practice

In *De officio* there is no discussion of torture within the interrogation process. Ugolini, on the other hand, does discuss torture and is clearer than Gui at least about the level of proof needed for a conviction and the preconditions for the use of torture. He is not as set on getting a confession as Gui but rather he makes use of jurists, including the ‘Archdeacon’ (Guido de Baysio) and Johannes Andreae (of whom Eymerich also makes considerable use) to describe a number of ways in which a case of alleged heresy can be ‘fully proved: plene probatum’ in accordance with the provisions of canon law.¹¹⁹ For example, he differentiates two scenarios by reference to the strength of suspicion. In effect if evidence against a suspect is only ‘light: levis’ and he abjures, a second offence, although severely punished, will not lead to release to the secular arm. On the other hand if the proof was ‘vehement: vehemens’, even if it were not full proof, a second offence would lead to release to the secular arm. (The concepts of ‘vehement suspicion’ and ‘violent presumption’ derive ultimately from Alexander IV’s *Accusatus*, although ‘violent presumption’ is a glossator’s term discussed below).¹²⁰ Gui does not discuss these concepts and their possible impact on cases when discussing *Excommunicamus* and *Cum contumacia*.¹²¹

Torture in Ugolini is a last resort; there are a number of steps which must be gone through before torture can be used. Where the suspect does appear before the inquisitor, he may purge his guilt if he confesses. When the suspect does not confess, he may disprove the evidence against him; but that can only happen if he is given access to that evidence, which in turn requires there to be no danger to witnesses.¹²² If he is successful in disproving the case he is absolved. On the other hand if there is sufficient evidence against him, the suspect can be

¹¹⁷ *Practica*, p 315.

¹¹⁸ *Ibid.*, p. 284.

¹¹⁹ *Tractatus*, p. 47.

¹²⁰ *CIC*, cols. 1071-72.

¹²¹ *Practica*, pp. 177-78.

¹²² *Tractatus*, p. 48.

condemned. But if there is ‘some proof against the suspect but not however full proof: aliqua probatio contra inquisitum sed non tamen plena’ resort may then be had to torture. Partial proof is defined as the evidence of one witness of good opinion and reputation.¹²³ Resort to torture is therefore a way of resolving matters when there is some proof but not sufficient for a conviction. That said, Ugolino is clear that the inquisitorial process does not usually move to torture but rather the custom is either to convict or absolve.¹²⁴ Ugolini, although he gives more precise rules than Gui, seems close to him in spirit, in that torture was a last resort as a way to resolve doubtful cases. On the other hand in setting down more precise rules than Gui, he foreshadows Eymerich’s approach.

Interrogation in Eymerich

While much about Gui’s practice on torture has to be the subject of inference and surmise, doubt is entirely absent in Eymerich, who specifies in considerable and prescriptive detail what Gui leaves vague. He is also more detailed than Ugolini; he gives precise instructions where Ugolini gives principles. It is unnecessary to describe the whole of Eymerich’s system for interrogation, which is clearly set out in the *Directorium*; rather we will concentrate on those aspects which seem to be innovative or add something substantial to what can be derived from other sources.

When Eymerich comes to discuss interrogation methods in general he draws significant amounts from Gui, in particular from the opening section of Gui’s Part 5. As already noted, he does not reproduce Gui’s words wholly *verbatim* but transposes them into his own language with changes for the sake of greater accuracy or preferences of style.¹²⁵ There is also evidence in the *Directorium* (already mentioned above) that he had access to the *Sententiæ*, and he mentions the case of Ponce Arnaud.¹²⁶

Eymerich has suggestions for increasing the pressure on suspects during interrogation, which consists of ten ‘techniques: cautelæ’ against the tricks of suspects.¹²⁷ These are various methods

¹²³ *Ibid.*, p. 49.

¹²⁴ *Ibid.*, p. 49.

¹²⁵ *Directorium*, pp. 288- 89, BM, fols CXXIII^r-CXXIII^v.

¹²⁶ *Sententiæ*, pp. 552-58; and *Directorium*, p. 378, BM, fol. CLXII^r.

¹²⁷ *Directorium*, pp. 291-93, BM, fols CXXV^v - CXXVI^v.

for getting a suspect who refuses to talk to do so before any use of torture. They increase in their level of intensity. Eymerich's first consists of the realisation that the suspect is being evasive and is essentially a suggestion that the inquisitor drill down into his statements. For example he should ask the suspect if his belief in the Holy Catholic Church refers to the same Church as the inquisitor has in mind. His second consists of planting someone with the suspect to say the inquisitor is sympathetic; his third of showing the suspect the evidence against him; his fifth of the inquisitor threatening to go away and leave the suspect in prison, a risk in itself but he rubs the point in: '[...] you are delicate, and could easily catch an illness: [...] delicatus es, et posses leviter incurrere ægritudinem'.¹²⁸ Interestingly one of Eymerich's tricks (showing difficult evidence to the suspect) was also present in the Bishop of Paris' ideas on how to extract the truth from Templars; indeed the overall shape of his interrogation process – 1) interrogation, 2) psychological pressure, and 3) torture – is common to Eymerich and the Bishop of Paris. Gui has no equivalent advice but the absence of these techniques from the *Practica* of course does not mean that they or something like them were not Gui's practice.

These interrogation techniques are perhaps not a purely medieval phenomenon restricted to the inquisition. Karen Sullivan has carefully described how the techniques described by Eymerich (not including torture) resemble those recommended in modern interrogation manuals.¹²⁹ They seem to represent an understanding derived from experience of how pressure can be applied to suspects in a vulnerable situation. Sullivan in her *Inner Lives* also points out that Eymerich's use of these techniques could involve bad faith. He might offer a suspect *gratia*, a term which could mean 'reprieve', in return for a confession but disappoint the suspect's expectation of deliverance because the inquisitor saw *gratia* as coming from allowing the suspect to get a reprieve for his soul by abjuring.¹³⁰ This bad faith or trickery seems absent from Gui.

These are not the only means for putting pressure on suspects to make a confession or to speak the truth. Eymerich's default way of eliciting the truth is the use of torture but other tactics are available before torture is used. This is set out succinctly in Eymerich's 'Third Way of finishing and terminating a process of faith: Tertius modus processum fidei finiendi et terminandi'.¹³¹

¹²⁸ Ibid., p. 292, fol. CXXVI^r.

¹²⁹ Sullivan, *The Interrogation of Joan of Arc*, pp. 93-99.

¹³⁰ Sullivan, *Inner Lives*, pp. 173-74 and *Directorium*, p. 293, fol. CXXVI^v.

¹³¹ *Directorium*, pp. 313-15, BM, fols CXXXV^r-CXXXVI^r.

Non sit tamen inquisitor multum voluntarius ad quæstionandum aliquem; nam questiones et tormenta non inferuntur, nisi in defectum aliarum probationum; et ideo perquirat alias probationes. Quod si non invenerit, et tenet probabiliter, quod delatus est culpabilis, sed metu negat veritatem, bonis modis et quandoque cautelosis, et interdum adhibitis eius amicis inducentibus ad veritatem dicendam, faciat suam diligentiam, ut ab ore eius habeat veritatem, et negotium non festinet: nam meditatio frequens, et carceris calamitas, et replicata informatio proborum virorum, disponunt ad veritatem eruendam.

Quod si delato convenienter expectato, et tempore congruenter prorogato, ac delato multipliciter informato, credant bona fide episcopus et inquisitor, omnibus consideratis ipsum delatum negare veritatem, quæstionent eum moderate, sine tamen effusione sanguinis, scientes quod questiones sunt fallaces et inefficaces.

However the inquisitor should not be very willing to proceed to torturing someone; for torture and torments are not brought in except in the absence of other proofs; and for that reason he should search diligently for proof in other ways. If he has not found it, and he holds that the denounced person is probably guilty, but is denying the truth out of fear, he should, by good means and techniques and at the same time by bringing in the suspect's friends who induce him to tell the truth, exercise his diligence so that he can get the truth from his mouth and not take the business forward too quickly; frequent meditation and the calamity of prison and the repeated information of upright men dispose to giving out the truth.

But if, after they have waited for the denounced person for a decent period and a suitable time has elapsed, and the suspect has been informed on a number of occasions, the bishop and the inquisitor believe in good faith, all things considered, that the denounced person is denying the truth, they should torture him moderately, without however any effusion of blood, knowing that torture is deceptive and ineffectual.¹³²

Here again there is an echo of the Bishop of Paris, and of Gui, who favoured the use of imprisonment to bring forth confessions, albeit there is not the stress on the length of imprisonment which there is with Gui. But, although Eymerich sees methods like aggressive

¹³² Ibid., p. 313-14, fol.CXXXV^v.

interrogation techniques, imprisonment and pressure from friends and upright men as valid ways of establishing the truth, if these means prove unsuccessful, and if the inquisitor and bishop believe the suspect is not telling the truth, in most cases he recommends that torture subject to the usual safeguards should be used.

The results of this stage of the interrogation process, the ‘initial findings’, become the basis on which cases are taken forward. This formal *cæsura* in the proceedings is not present in the *Practica* and the other 14th century manuals. How precisely the inquisitor next proceeds depends on what evidence he has marshalled; Eymerich lists thirteen possible ways of proceeding, ranging from ‘[the suspect] is found absolved and totally immune from heresy: reperitur absolvendus, et ab hæresi totaliter immunis’ to ‘[the suspect] is found not to have confessed but is convicted of heresy by legitimate witnesses or judicially in other ways: reperit non confessus, sed convictus de hæresi legitimis testibus, et alias iudicialiter’.¹³³ Each way of proceeding, has been calibrated according to the level and kind of proof available against the suspect, who might equally well be a *receptator*, *defensor* or *fautor* as a heretic proper.¹³⁴ The intensity of the suspicion of heresy has three levels - *levis* (or *modica*), *vehemens* and *violenta* - and is fundamental to this section.¹³⁵ They are discussed in Part 2 of the *Directorium*, which also gives definitions of what behaviour can be held to constitute the varying levels of *suspicio*.¹³⁶ For example *levis suspicio* is defined by two behaviours – ‘celebrating hidden conventicles: *occulta conventicula celebrantes*’ - or ‘in life and morals deviating from the common ways of the faithful: *vita ac moribus a communi conversatione fidelium deviantes*’ (a phrase used when announcing the period for denunciations (see above), which derives from Lateran IV).¹³⁷ These levels of suspicion are much the same as Ugolino uses.¹³⁸ The other ingredient which plays an important role is *fama* or *infamia*, which is the trigger for an *inquisitio* to be held.

The first three ways of proceeding after a denunciation are the most important because they in effect set the minimum threshold for the use of torture. They can be summarised as follows:

¹³³ *Ibid.*, p. 310, fol. CXXXIII^r.

¹³⁴ *Ibid.*, p. 310, fol. CXXXIII^v.

¹³⁵ *Levis* and *vehemens* derive from *Accusatus*; *CIC*, II, cols 1071-72. *Violentus* is defined by later glossators as a level of proof which is greater than *vehemens* and incontrovertible.

¹³⁶ *Directorium*, pp. 258-60, fols CXI^r - CXII^r, Q. 55.

¹³⁷ *Ibid.*, p. 258, fol. CXL^r.

¹³⁸ *Tractatus*, pp. 47-48.

No.	Initial Finding	Way of Proceeding
1	‘[...] the suspect is not convicted either by his own confession or factual evidence or by the legitimate production of witnesses and is not otherwise suspect nor publicly held to be guilty (<i>diffamatus</i>) of the aforesaid crime’. ¹³⁹	Absolved
2	‘the suspect is not convicted either by his own confession or evidence of fact or by the legitimate production of witnesses and no other evidence (<i>indicia</i>) can legitimately be proved against him, except <i>infamia</i> alone.’ ¹⁴⁰	Canonical purgation
3	‘the suspect is not caught either by his own confession or evidence of fact or by the legitimate production of witnesses and there is not sufficient evidence for such suspicion that he would have to abjure heresy; however he varies in his confessions, or in other ways there is sufficient proof for the use of torture.’ ¹⁴¹	Torture to establish guilt or otherwise

Superficially, Eymerich seems much more willing than Gui (who agonises about the consequences of a suspect outwitting the inquisitors) to countenance that in some cases a suspect will be absolved.¹⁴² But it must be asked how often the conditions for absolution would have arisen in practice. Two conditions would have to have been met, that is that there was no *infamia* against the suspect (unlikely if the inquisition was already interested in the individual!) and that there was no breath of suspicion. The level of suspicion to proceed to torture is less than *levis suspicio*, the lowest level of suspicion which can lead to abjuration, so that to achieve

¹³⁹ *Directorium*, p. 310, fol. CXXXIIIv: ‘delatus non convincitur, nec confessione propria, nec facti evidentia, nec testium productione legitima; nec alias suspectus, nec diffamatus publice de prædicto crimine’.

¹⁴⁰ *Ibid.*, p. 312, fol. CXXXIIIv: ‘delatus non convincitur, nec propria confessione, nec facti evidentia, nec testium productione legitima, nec quæcunque alia indicia probantur legitime contra eum: nisi præcise sola infamia’.

¹⁴¹ *Ibid.*, p. 313, fol. CXXXVr: ‘delatus non est deprehensus nec propria confessione, nec facti evidentia, nec testium legitima productione, nec sunt indicia ad talem suspicionem, ut habeat hæresim abiurare: est tamen in suis confessionibus varius, vel alias sunt indicia sufficientia ad quæstiones et tormenta’.

¹⁴² *Practica*, p.236.

an *absence* of suspicion may in practice have been quite a high hurdle. In practice Gui, who was cautious about having a firm case before acting against a suspect, might well have been reluctant to make arrests in cases where evidence was thin. Eymerich, however, was willing to take anyone who came under suspicion or was denounced; there was a low entry point into the inquisitorial process.

More importantly, Eymerich set a low threshold for the use of torture. A simple denunciation might well lead to an individual being ‘put to the question’, provided that the testimony the suspect gave on interrogation gave rise to sufficient suspicion. This is defined primarily as the suspect giving contradictory testimony or being ‘varius: inconsistent’ in Eymerich’s words.¹⁴³ He adds to this the idea of the suspect also being ‘vacillating: vacillans’.¹⁴⁴ Inconsistency and vacillation might simply be the normal reaction of a person who was frightened. The other ground is expressed as there being ‘sufficient proof for the use of torture in other ways’, a criterion which it is impossible to judge.¹⁴⁵ Although Gui’s precise threshold for the use of torture in interrogations cannot be known, he probably only used it when there were no other options¹⁴⁶ and he was cautious about arresting suspects. It is difficult to compare him directly with Eymerich but he did not easily use torture. Ugolino sees torture as being used when there is some proof but not enough to convict, or, in his terms, the case contains ‘some proof against the suspect but not however full proof: aliqua probatio contra inquisitum sed non tamen plena’. His language implies that this will not be common. He also describes one circumstance when torture is valid as being when there is one witness ‘of good opinion and repute: bonæ opinionis et famæ’.¹⁴⁷ Gandinus sees torture as being justified when there is an *indicium*.¹⁴⁸ In comparison with Gandinus and Ugolino the criteria which Eymerich set for the use of torture left everything to the inquisitor’s judgment and could be met by the smallest hesitancy or contradiction or anything that the inquisitor saw as suspicious. Nevertheless Eymerich’s judgment that a suspect was contradicting himself and vacillating might conceivably reach Gandinu’s standard of an *indicium*. But Eymerich’s threshold seems lower than Ugolino’s

¹⁴³ *Directorium*, p. 313 and p. 372, BM, fol. CXXXV^r and fol. CLIX^v.

¹⁴⁴ *Ibid.*, p. 372, fol. CLIX^v.

¹⁴⁵ *Ibid.*, p. 313, fol. CXXXV^r: ‘vel alias sunt indicia sufficientia ad quæstiones et tormenta.’

¹⁴⁶ He did of course expect when heretic suspects were captured to establish the whereabouts of other heretics. See p. 190.

¹⁴⁷ *Tractatus*, p. 49.

¹⁴⁸ Gandinus, p. 174: [...] if in the place of *fama* there is some *indicium* which might be confirmed by *fama* torture can proceed [...]: [...] si preter famam esset aliquod indicium quod confirmaretur a fama, posset ad tormenta procedi [...].

‘aliqua probatio’, if only because Ugolino lays stress on the quality of the witness. Eymerich’s concentration on the suspect’s behaviour gave inquisitors considerable scope to find evidence sufficient to move to torture.

The canon law justification that Eymerich gives for the use of torture in cases where someone has been denounced and is ‘vacillans et varius: vacillating and inconsistent’ but still denies the charge against him is based on the glossed version of the *Liber Extra* and three glosses in particular. First, Gregory IX’s provision ‘*Cum in contemplatione*’ says that no-one should be tortured at the beginning of a case; the gloss adds that judges should not start with torture unless there are ‘stubbornnesses: *præsumptiones*’.¹⁴⁹ The second reference is to a passage by Eusebius, upon which the glossators declare that spontaneous denunciations are not to be believed and that therefore the truth has to be elicited from the suspects ‘*a tormentis: by torture*’; ‘so that the truth should flow out of its hiding places: *ut de suis latebris veritas eruatur*’.¹⁵⁰ This would seem to apply to a case where there had perhaps been an anonymous denunciation, which fell short of being a proper *indicium*. Last the gloss on ‘*Super his*’, a provision of Alexander III which addresses a rather different point of law, says that ‘*vacillans vel varians in testimonio non est ipso iure infamis: a person vacillating or varying in testimony is not by the law itself defamed*’.¹⁵¹ None of these authorities appears conclusive. The first can be taken as being more restrictive than Eymerich by saying that torture should not be rushed into and then only used when there is recalcitrance, a qualification lacking in Eymerich; the second seems to address not the suspect’s own conduct but evidence given by others and does not seem not relevant; and the third can be read as playing down the amount of inference to be made from vacillation and inconsistency. Although Eymerich deploys a range of authorities they do not seem to justify his recommendation.

Although being *vacillans* and *varius* is the lowest evidential requirement for the use of torture, there are other possibilities. Eymerich in fact builds up a matrix for deciding when torture should be used, a system which eliminates discretion:

¹⁴⁹ *Glossa Ordinaria*, II, p.1964: ‘*In ipso causæ initio non est a quæstionibus inchoandum*’.

¹⁵⁰ *Ibid.*, p. 1046.

¹⁵¹ *Ibid.*, p. 1860.

Nature of Suspect	Criteria for applying Torture	Comment
Denounced as a heretic.	Inconsistency and hesitancy (<i>varius et vacillans</i>) in questioning.	It is assumed that he wishes to hide the truth, which he cannot comfortably tell.
Reputed to be a heretic.	One witness of fact.	The <i>fama</i> and one witness can add up to two witnesses, which is sufficient to apply torture. Although one witness is not enough to condemn it is enough to presume.
Reputed to be a heretic.	<i>Infamia</i> and one or more <i>indicia vehementia vel violenta</i> or pieces of evidence or indications; or two or more <i>indicia vehementia et fortia</i>	One <i>indiciu</i> m is not enough but is sufficient with <i>infamia</i> .
Witness against him.	One witness of fact and one or more <i>indicia vehementia vel violenta</i>	
<i>Indicia</i> alone against him.	Several <i>indicia vehementia vel violenta</i>	These are sufficient even without <i>fama</i> or a witness.
Reputed to be a heretic.	Witness of fact or several <i>indicia vehementia vel violenta</i>	

This table is based on *Quaestio* 61, in which this series of rules for deciding on the use of torture is discussed and authorities are given for each rule.¹⁵² Eymerich presents these rules in a rather dismissive way by saying that ‘perfect and infallible rules: perfecte atque infallibiles regulæ’ are not possible.¹⁵³ But given the precise rules which Eymerich in fact sets down this statement is a little surprising. It reflects thinking about torture going back to Azo, who uses similar language but Eymerich’s highly organised approach belies Azo’s caution.¹⁵⁴

¹⁵² *Directorium*, pp. 372-73, BM, fols CLIX^v - CLX^r.

¹⁵³ *Ibid.*, p. 372, fol. CLIX^v.

¹⁵⁴ Azo, *Summa codicis*, liber lx – *De questionibus*.

Eymerich says a good deal on the varying impacts on people of torture; the weaker may confess readily, while the stronger may resist. There is also a discussion of how to build up to torture and pose questions in the right way to maximise the chances of a confession.¹⁵⁵ But one phrase may again show a shift from what may have been the thinking in Gui's time. Eymerich correctly, in line with the requirements of *Multorum querela*, describes how the decision to torture must for both bishop and inquisitor, but then talks of that decision as a 'sentence', that is more than a simple choice of a particular method of interrogation but a distinct and in some way decisive stage in the judicial process.¹⁵⁶ This is reinforced by the ability to appeal against a decision to torture discussed later in this chapter.

As well as creating a low threshold for torture Eymerich seemingly moves away from the safeguards that were supposed to be in place to limit the impact of torture. First he suggests that the judges, who presumably were present at the torture, should, where it was possible to do so, give assurances that if a suspect confessed he would not face death. As Eymerich says: 'many will confess the truth if they are not terrified by the fear of death: multi faterentur veritatem, nisi metu mortis terrentur. This assurance should not be given in the case of a *relapsus*.¹⁵⁷ This might well have encouraged an innocent party to confess to avoid death. Eymerich also suggests that if a suspect continues to deny charges it should be made clear that unless he confesses the torture will continue; similarly if a suspect is tortured and confesses but subsequently denies that confession outside the torture chamber the torture should continue. In both cases Eymerich is insistent that the torture is continuing and not being repeated. A day will be assigned:

[...] for continuing torture not for repeating (it), because it should not be repeated unless new evidence should arrive against him: [...] ad continuandum tormenta non ad iterandum: quia iterari non debent, nisi novis supervenientibus indiciis contra eum.¹⁵⁸

The common position was that torture could only be carried out once but Eymerich circumvents this by the device of 'continuing' the torture.¹⁵⁹

¹⁵⁵ *Directorium*, pp. 313-15, BM, fols CXXXV^v - CXXXVI^r.

¹⁵⁶ *CIC*, II, cols 1181-82; and *Directorium*, p. 314, BM, fol. CXXXV^v: 'Cum autem lata fuerit sententia [...]: But when the sentence has been delivered [...].'

¹⁵⁷ *Directorium*, p. 314, fol. CXXXV^v.

¹⁵⁸ *Ibid.*, p. 314, fol. CXXXV^r.

¹⁵⁹ Gandinus, pp. 164-65.

There are some other points to note in Eymerich's approach. First, in a case of *violenta suspicio* no defence is allowed because the proof is such that the person involved is already considered a heretic 'on account of something he said or did: propter aliquid, quod dixit, vel egit.'¹⁶⁰ The category of 'violent' proofs is not one that explicitly appears in *Accusatus*, which only defines *levis* and *vehemens*.¹⁶¹ However the idea of conduct which directly proves heresy is inherent in the earlier *Excommunicamus* and *Cum contumacia*, which allow someone who fails to purge an excommunication for failing to appear on foot of a summons to be automatically considered a heretic.¹⁶² Eymerich uses Joannes Andreae's and the Archdeacon's (Guido de Baysio's) glosses, where they point out that *vehemens* does not equate to *violentus*, that is that *vehemens* leaves some room for doubt whilst *violentus* does not.¹⁶³ On this basis he prescribes a category of acts which constitute a sufficient proof of heresy and which are not limited to failing to appear: '[...] violent suspicion, against which proof is not admitted; [...] suspicionem violentam, contra quam non est probatio admittenda.'¹⁶⁴

Second, a *relapsus* for Eymerich can be someone who fails to carry out penitential measures imposed on him, as the following indicates:

[...] informing him (the suspect) that he should observe the penitence imposed on him, otherwise he would fall into relapse and could with justification be judged impenitent: [...] informando eum (suspectum), quod observet pœnitentiam sibi iniunctam, alias incideret in relapsum, et posset impœnitens merito iudicari'.¹⁶⁵

Gui, on the other hand, did not consider such cases *relapsi*. In fact a close reading of his text shows that he used his discretion to moderate the rigour of the law. He makes a distinction between those who are 'properly: proprie' relapsed by returning to their former habits and those who are 'not properly: improprie' relapsed who fail, for example, to carry out their penance.¹⁶⁶ Guidance about these 'not properly' relapsed 'is not to be found explicitly in the law: non

¹⁶⁰ *Directorium*, p. 319, BM, fol. CXXXVIII^r.

¹⁶¹ *CIC*, II, cols 1071-72.

¹⁶² *Ibid.*, cols 787-88 and col. 1071 respectively.

¹⁶³ *Directorium*, p.135, BM, fol. XLVI^v and p. 150, fol. LV^r respectively.

¹⁶⁴ *Ibid.*, p. 319, fol CXXXVIII^r.

¹⁶⁵ *Ibid.*, p. 318, fol. CXXXVIII^v.

¹⁶⁶ *Practica*, p.220.

invenitur expressum in jure'. None of Gui's authorities exactly covers these cases, so he takes the view they should not suffer the full penalty reserved for a *relapsus*.¹⁶⁷ While Eymerich (probably correctly) follows the logic of the law, Gui uses his discretion humanely.

The significant difference in overall approach between Gui and Eymerich on torture is that Gui was above all cautious and would use torture only as a last resort in the interrogation process. Eymerich on the other hand set a precise framework to decide how to take the case forward. Inquisition was reduced to a set of rules and inquisitors were given a low threshold for the use of torture. As a result, whereas Gui reserved torture in the interrogation process as an option when all else had failed, for Eymerich it was the stage through which cases would pass unless they were resolved earlier either by abjuration, punishment or absolution. Torture was not always used in Eymerich's model; but unless the suspect confessed willingly, the likelihood was that the case would proceed to torture.

Securing Abjuration in Eymerich

Admission of the fact of heresy and abjuration of that heresy were two different parts of the process. While torture could be appropriate for establishing matters of fact, it was never considered appropriate for achieving penitence and consequential abjuration of heresy, which the heretic had to choose freely. Eymerich therefore looks for another methodology for encouraging penitence. What is striking is Eymerich's suspicion of the penitential aspects of the inquisition. His eighth method of disposing of a case concerns those who are willing to abjure as penitent heretics, in which he posits a difference between those who are genuinely penitent and those who are not.¹⁶⁸ Those who are genuine, once informed of their errors and Catholic truth, abjure and keep to their promise. 'They should be dealt with more leniently: cum his mitius est agendum' by prescribing the wearing of crosses.¹⁶⁹ However there is a category of penitents against whom the full rigour of the punishment will be carried out. He says:

¹⁶⁷ *Ibid.*, p. 222.

¹⁶⁸ *Directorium*, pp. 325-31, BM, fols CLX^v - CLXIII^r.

¹⁶⁹ *Ibid.*, p. 330, fol. CXLII^v.

These are very rarely truthfully, but rather falsely converted and under the guise of a lamb act as wolves: rarissime veraciter convertuntur, sed fecte, et sub agni specie gerunt lupum.

They should be dealt with cautiously: cum eis cautius est agendum. They should not easily be released from prison but rather kept inside for many years or in perpetuity lest they infect others: nec sunt faciliter a carcere liberandi, sed potius per annos plures, seu perpetuo in eisdem detinendi, ne alios inficiant.¹⁷⁰

No suggestions are made as to how the two categories might be differentiated; and, although the language of penitence it is intertwined with the language of crime and punishment, the criminal and punitive aspects predominate. It is emphasized that heresy is a crime against the church: 'It is much worse to harm eternal majesty than temporal: multo gravius sit eternam, quam temporalem lædere maiestatem; and there is talk of 'evil works against the Catholic Faith: mala opera contra fidem catholicam.¹⁷¹

The tenth method of concluding cases concerns confessed but impenitent heretics, who are not *relapsi* but who nevertheless will be released to the secular arm because they refuse to abjure. Eymerich prescribes that all efforts should be made to secure abjuration, up to the point where the flames actually consume the heretic. This can be seen as emphasizing the overriding need to secure penitence and to save the individual's soul. In this Eymerich parallels Gui who advises making considerable efforts to turn Cathar *perfecti*.¹⁷² They both rely on the corrosive effect of prison to change views. Gui says that 'Inquisitors are accustomed to detain such *perfecti* heretics for rather a long time [...]: Tales autem perfectos hereticos consueverunt inquisitores detinere diutius [...].'¹⁷³ Eymerich differs from Gui, not in tactics but in the degree of specificity he gives them. He gives a detailed methodology for securing abjuration from an impenitent but not *relapsus* heretic, which includes rigorously controlling access to the suspect, so that he cannot spread heresy or (implicitly) have his beliefs reinforced, and attempting his conversion through inquisitor and bishop.¹⁷⁴ There is a confidence that they can win the

¹⁷⁰ Ibid., p. 331, fol. CXLIII^r.

¹⁷¹ Ibid., p. 329, fol. CXLII^r and p. 326, fol. CLXI^r respectively.

¹⁷² *Practica*, p. 239.

¹⁷³ Ibid., p. 239.

¹⁷⁴ *Directorium*, p. 333, BM, fol CXLIII^r.

argument and ‘destroy for him (the suspect) the bases of his error: destruantur ei fundamenta sui erroris’.¹⁷⁵ If the bishop and inquisitor fail a larger number of experts (Eymerich advises 10 or 12) should be brought in to increase the pressure, using both theological and legal arguments.¹⁷⁶ If this fails there should be no rush to release the suspect to the secular arm but rather psychological/physical pressure should be applied. This involves both physical deprivation and threats about future penalties. The logic is that a refusal to accept Catholic truth will often be driven by a desire for immediate martyrdom, which is to the suspect’s detriment; imprisonment can break this down:

[...] such people are at the beginning very fervent that they should be burnt, believing they will fly away to Heaven: [...] tales a principio sunt multum ferventes, ut comburantur, credentes statim evolare ad caelos. But after six months or a year in prison:

[...] the vexation and the calamity of prison frequently opens their mind: [...] vexatio frequenter aperit intellectum, et calamitas carceris [...].¹⁷⁷

If harsh methods fail softer methods are employed, including less harsh prison conditions, offers of merciful treatment and visits from wives and children in the presence of others.¹⁷⁸ If this is not successful, abjuration remains possible even at the stake and throughout the execution process there must be a continuing opportunity to abjure.¹⁷⁹ This vigorous approach can be contrasted with Gui’s caution about arguing with heretics lest the Church lose and be discredited.¹⁸⁰ Evidently Eymerich’s heretics were less skilled in arguing their case.

Perception of Suspects

The attitude of inquisitors towards suspects or rather their perception of heretics as people can be inferred from the *Practica* and *Directorium*, and of course the *Sententiae*, albeit with the reservation that texts prepared as guidance are necessarily normative and may represent only an idealised practice.

¹⁷⁵ Ibid., p. 333, fol CXLIII^r.

¹⁷⁶ Ibid., pp. 333-34, fol CXLIII^r.

¹⁷⁷ Ibid., p. 334, fol.CXLIII^v.

¹⁷⁸ Ibid., p. 334, fol.CXLIII^v

¹⁷⁹ Ibid., p. 335, fol. CXLV^r.

¹⁸⁰ *Practica*, p. 236.

Gui's attitude towards his suspects can perhaps best be defined as proper and circumscribed, informed by a penitential mode of thinking. For Gui heresy is above all a hidden thing; modern heretics did not walk in the light but hid their (foul) activities and deceived learned men with verbal tricks.¹⁸¹ Indeed they could put the credibility of the inquisition at risk. Gui describes each variety of heretic in fairly objective terms, sometimes, as noted in Chapter II, using pre-existing materials. In the light of that one might detect some differing feelings towards the various groups. For example when he says of Cathar *perfecti* that their conversion 'is commonly true and rarely faked: communiter vera est et raro ficta', it can be felt as a quality of which Gui approves.¹⁸² Conversely one can detect more animosity towards Waldensians whose duplicity is discussed at length, albeit using to a considerable extent material from elsewhere, and who use tricks '[...]' so that inquisitors tired out by tedium stop pursuing them [...]: [...] ut inquisitores tedio lassati desistant eos insequi [...].¹⁸³ Gui saw the heretics he dealt with as individuals, as people who could be trusted in certain circumstances if they made the right choices. Heresy had not robbed them of their humanity.

Eymerich does not take quite the same view of heretics. His heretics are less differentiated between sects; some may have additional powers stemming from their relationship with demons; and their word can never be trusted. Eymerich starts from the belief that magic or sorcery can be used to withstand torture and indeed sorcery is present in his world as a real force:

Some are even possessed by sorcery and use sorcery while being tortured, who would die before confessing anything; for they are made as if without feeling: Aliqui sunt etiam maleficiati, et in quæstionibus maleficiis utuntur, qui ante morerentur, quam aliquid faterentur: efficiuntur enim quasi insensibiles.¹⁸⁴

Such heightened powers, or rather a state of trance, were held at the time to be typical of demonic possession; Aquinas talks of demoniacs entering a state of trance.¹⁸⁵ It is perhaps not

¹⁸¹ Ibid., p. 236.

¹⁸² Ibid., p. 239.

¹⁸³ Ibid., p. 256.

¹⁸⁴ *Directorium*, p. 314, BM, fol.CXXXV.

¹⁸⁵ Aquinas, *Summa Theologiæ*, 2.2.175.1.

remarkable that some victims of torture could withstand it and became devoid of feeling; but Eymerich's response, perhaps informed by his view of the immanent threat of heresy is to interpret the phenomenon in a way which conforms both to his beliefs. Eymerich sees those who resist torture as in effect entering into the sort of pact with demons that magicians do when performing most sorts of magic. But this might be any kind of heretic, not just magicians. Many, perhaps all, heretics have a relationship with demons, even Llull. In his Dialogue against the Lullists Eymerich accuses Llull of having been taught by the Devil: 'the great evidence was that he was educated thus by the devil: *indicium magnum fuit quod a diabolo sic edoctus sit.*'¹⁸⁶

There is, on the contrary, no sense in Gui that sorcerers and the like had such powers. As already noted in Chapter V, he remarks about sorcerers simply that they are 'a plague and a various and manifold error: *pestis et error varius et multiplex*', and takes note of the instructions (but not the wording) of the letter John XXII sent him on 22 August 1320 in the *Practica*.¹⁸⁷ There is nowhere else any evidence of concern on Gui's part about magical powers on the part of heresy suspects.

The fact that Eymerich sees all heretics as potentially having access to demonic powers may have been in part why he was more ready than Gui to use torture and more willing to prolong torture to get a result. This fear of heresy as demonic may also have added to his pessimism about penitence. The pertinacious Barcelona heretic discussed in Chapter IV, who abjured as the flames lapped round him and was allowed to live, was condemned after 14 years as a *relapsus*, during which period he had caused considerable damage.¹⁸⁸ This passage, in which Eymerich speaks vividly in the first person in the midst of otherwise text-book prose, has particular authority and might well be taken to represent his personal views against the institutional view that heretics had to be given the chance to abjure and live on the first occasion. Indeed on several points (e.g. the treatment of *relapsi* against the conditions set by inquisitors, the concept of *violenta suspicio*, and the low threshold for torture) he can be seen to be more relentless than Gui in the *Practica*. It may well be that this harsher approach towards the inquisitorial process generally is also linked to this dehumanised view of suspects.

¹⁸⁶ Jaume de Puig i Oliver, 'El "Dialogus contra Lullistas" de Nicolau Eimeric, Edició i Estudi' in *Arxiu de textos catalans antics*, 19 (2000), p. 152.

¹⁸⁷ *Practica*, p. 292.

¹⁸⁸ *Directorium*, p. 335, fol. CXLV^r.

Appeals

Intervening in, or appealing against, the inquisition process was ostensibly difficult in Gui's time. Informal pressure during interrogation certainly occurred; in the *Practica iurisperiti* may possibly be swayed by feeling for individuals (*affectione persone*) and inquisitors were probably obliged by representations to give inappropriate pardons.¹⁸⁹ Gui, however, gives little other indication in the *Practica* that the inquisition was amenable to external pressure in the period before the inquisitors take their decision. In the absence of any further evidence it is impossible to say how much informal pressure was put on the inquisitors and how effective that pressure was.

The formal way of intervening would have been, in principle at least, through appeals, which in principle would have provided a way of delaying or reversing the inquisition's activities. But in the *Practica* they seem to be ruled out. The right to appeal was, according to Gui, removed first by Gregory IX in relation to Italy.¹⁹⁰ A letter to all Christians by Alexander IV saying: 'statements and appeals from this sort of person are not (*minime*) heard' extended this to all inquisitors.¹⁹¹ That said, no provision abrogating the right to appeal could be final. Any canon law provision, although binding for the time being on others, could be overturned by the pope, perhaps as a result of political pressure, both in general and in specific cases. Of course appeals in the usual form to Rome from a case before a bishop, which usually led to the appointment of a local delegated judge to hear the case, would be ruled out by the fact that the inquisitors were already delegated judges of the Holy See. Nevertheless the pope could intervene in the decisions of his delegates. That route was occasionally attempted in the Languedoc. There was an attempt in the case of Castel Fabri, who was posthumously declared heretical in 1300 in Carcassonne to present an appeal to the pope but there was great difficulty in finding a lawyer to notarise it, and the appeal does not seem to have gone ahead.¹⁹² There is the case of Guilhem Garric of Carcassonne who, as a ringleader, was convicted of heresy following the troubles in Carcassonne and who according to a letter from Philippe IV in 1312

¹⁸⁹ *Practica*, p. 83 and p. 56 respectively.

¹⁹⁰ *Texte zur Inquisition*, p. 42.

¹⁹¹ '[...] proclamationes ac appellationes huiusmodi personarum minime audiantur'. See *Practica*, p. 212; *Directorium*, p. 88; *Excommunicamus, Texte*, p. 42.

¹⁹² Lea, *A History of the Inquisition*, II, pp. 73-74.

had received a pardon from the pope, but remained in custody for another 10 years probably on the basis of further heresy charges.¹⁹³ One suspects that his continuing detention had a political element in that he was a ring-leader in the troubles at Carcassonne, second only to Bernard Délicieux.

At a slightly later period there is the case already discussed involving le Sire de Parthenay who did manage with some difficulty to appeal.¹⁹⁴ The notable features of this case are, again, the difficulty in appealing as well as difficulties in finding a lawyer and in having access to the prisoner. Nevertheless, Albert Shannon notes that, although the phrase ‘*appellatione remota*: appeal rights removed’ occurred regularly in inquisitorial law, in practice a number of people succeeded in appealing against inquisitorial decisions in the 13th century.¹⁹⁵

The position seems to have been that formal appeals would be resisted, although they were not impossible. Such a position had dangers for relations with the public and for confidence in the inquisition, and *Multorum querela* can be seen as in some ways a substitute for a fully functioning appeals process. The involvement of the local bishop in inquisitorial decisions was of course not formally the same as an appeal; but the reality might not have been very different from the likely result of an appeal in a non-heresy case, where the pope would probably have appointed a local bishop to hear the appeal. *Multorum querela*, while it did not in any way provide a proper appeal mechanism, did apply a brake of some sort, as the appeal process did. Gui does not admit the necessity for any kind of revising mechanism for the inquisitors’ decisions but there seems to have been a settled view amongst others in the Church that *Multorum querela* was needed, hence its passage at the Council of Vienne in 1312 and promulgation in 1317.¹⁹⁶

De officio, written around the same time as the *Practica*, makes no mention of appeals.

Eymerich on the other hand lives in a world where, as he says, appeals and other kinds of pressure have become frequent. The rule that protected Gui from formal appeals is still in force

¹⁹³ Vic & Vaissette, X, cols 526-27.

¹⁹⁴ Vidal, *Bullaire*, pp. 77-85.

¹⁹⁵ Albert Shannon, *The Popes and Heresy in the Thirteenth Century* (Villanova: Augustinian Press, 1949), pp. 123-27.

¹⁹⁶ BNF, Doat XXX, fols 92^r-104^v.

but appeals are possible before torture, before sentencing and before the person in question is confirmed as a heretic.¹⁹⁷ Eymerich deals at some length with such appeals to the pope.¹⁹⁸ The inquisitor had the duty to consider an appeal first and if he held it to be valid he would, where possible, put right the *gravamen* or damage caused to the appellant. If he did not consider it valid he could reject it or refuse leave to appeal.¹⁹⁹ There does not appear to be any further appeal from this decision. But, even though the appeal is ‘frivola atque nulla: frivolous and worthless’, the inquisitor may allow it to proceed to Avignon/Rome ‘propter reverentiam sedis Apostolicæ: out of reverence for the Holy See’.²⁰⁰ Eymerich says that appeals are common.²⁰¹ He finishes by effectively exhorting the *curia* not to waste inquisitors’ time when such appeals occur and cause damage to the church.²⁰² Eymerich admits that he will have to allow appeals in at least some cases whether or not they are well founded. ‘Reverence for the Holy See’ may be one reason, but the reality may have been that, as inquisitor, Eymerich felt the need to get the pope involved to achieve his goals, as he did in the case of de Pieira. This allowing of appeals may reflect Eymerich’s relative weakness, although there is some indication that in some circumstances Eymerich did refuse appeals. There is a letter from King Peter IV protesting that Franciscan friars were not being allowed by Eymerich to appeal to the pope. Peter’s main desire is to avoid scandal which ‘attracts and amuses: allicit et iocundat’ the (large) Muslim population.²⁰³ Admittedly this was 16 years before Eymerich wrote the

¹⁹⁷ *Directorium*, p. 392, BM, fols CLXVII^r-CLXVII^v, Q. CXVII, which quotes Alexander IV *Noverit* but goes on to say that ‘[...] before sentence, if they are aggrieved in anything or unduly fatigued, there is no doubt they can appeal, for they are not yet considered as heretics: ([...] ‘ante sententiam autem si in aliquibus aggravantur, seu indebite fatigantur, non est dubium, quin possint appellare. nam nondum sunt habendi pro hæreticis’.)

¹⁹⁸ *Ibid.*, pp. 299-303, fols CXXIX^r-CXXXI^r.

¹⁹⁹ *Ibid.*, p.300, fol. CXXIX^v: ‘If he sees that the grounds of appeal are false or frivolous and non-existent; and that the appellant only wants to undermine or delay the judgment, (the inquisitor) may give a negative response or refute the appeal’; ‘Si enim videat quod causæ appellationis sunt falsæ vel frivolæ, atque nullæ; et quod appellans non vult nisi iudicium subterfugere, seu prorogare, det [inquisitor] apostolos negativos seu refutatorios’. ‘apostolos’ is the expression for an appeal used here.

²⁰⁰ *Ibid.*, p. 301, fol.CXXX^r.

²⁰¹ *Ibid.*, p. 300, fol.CXXIX^v: When the accused suspects that a sentence will be delivered against him, because his guilt is plain to him, he *frequently* has recourse to the remedy of appeal [...]; ‘Quando vero delatus dubitat, quin contra eum feratur sententia, quia constat sibi de culpa sua; *frequenter* recurrit ad appellationis remedium {...}.’ (emphasis added)

²⁰² *Ibid.*, p. 303, fol. CXXX^v: [...] there follows much damage to the holy Church when inquisitors are delayed in the Roman curia on account of cases of this sort: [...] sequuntur namque damna Ecclesiæ sanctæ multa, quando inquisitores in Romana curia propter causas huiusmodi longo tempore trahunt moram.

²⁰³ *Zur Vorgeschichte*, pp. 64-65.

Directorium, and it was at the beginning of his term as inquisitor, but it shows that appeals were not necessarily automatically accepted. However, a search of papal records has not thrown up any upsurge in appeals in the period before 1376; in complaining about appeals Eymerich may have been simply lamenting how contested his own actions were in Aragon.

There may be two, not mutually exclusive, reasons for the differing positions of Eymerich and Gui on appeals. First, canon law thinking was moving in that direction. The canonist Guido de Baysio (the ‘Archdeacon’) who wrote a commentary on the *Liber Sextus* after 1304 in which Boniface VIII confirmed Frederick II’s position, justified the rightness of allowing a level of appeal *before* conviction.²⁰⁴ His thinking is reproduced in the *Directorium*. He quotes Frederick and Boniface (‘heretics must not benefit from any legal privilege: non debent hæretici gaudere aliquo iuris privilegio’) but goes on to say:

[...] where it is not clear that someone is a heretic, the benefit of such law (on appeals) should not be denied to him; it helps to this end that in such a serious proceedings should go forward with much caution; [...] ubi non constat aliquem esse hæreticum, tale iuris beneficium ei denegari non debet; coadiuvat etiam ad hoc, quod in tam gravi crimine oportet cum multa cautela procedi.²⁰⁵

It is at least possible that Guido de Baysio was in part responding to the events at Carcassonne and perhaps the trial of the Templars, both of which arguably showed the disadvantages of a system without appeals. Guido was papal chaplain between 1304 and 1313, having previously been a canon lawyer and would have been at the centre of things. His views can be expected to reflect Clement V’s thinking. Second, there were good reasons in Eymerich’s practice why appeals before conviction might have been desirable on the lines that Guido indicated. Eymerich had regular recourse to torture as an integral part of the inquisitorial process; Gui did not use torture in the same way or at least on balance the evidence points that way. Being sentenced to be tortured is given by Eymerich as one of the grounds for appeal.²⁰⁶ If torture had become a more routine part of interrogation, and appeals had become easier, it may well have become common to appeal when torture was imminent.

²⁰⁴ Parts are included in the *Directorium*.

²⁰⁵ *Directorium*, p. 162, BM, fol. LX^v.

²⁰⁶ *Ibid.*, p. 299, fol. CXXIX^r.

The section of the *Directorium* on appeals throws up some other interesting insights. First, appeals may be lodged, or at least become apparent to the inquisitor, after the action appealed against (e.g. torture or book-burning) had occurred; hence the discussion of ‘*gravamina reparabilia* and *irreparabilia*: remediable or irremediable damage.’²⁰⁷ This implies that appellants either chose not to inform the inquisitor of the appeal immediately (it presumably went to a bishop or direct to Avignon) or did not understand the system. Second, although it is not explicitly mentioned, it is clear that Eymerich understands that some appeals will have to be allowed because of the (political) importance of the appellants; Eymerich rarely gives signs of bending to political pressure and here he only does so because of a formal appeal mechanism. Third, it is surprising that he advises inquisitors to seek a copy of the appeal ‘*sine turbatione atque metu*: without distress or fear’; classically one thinks of the inquisitor as being in a position of considerable power *vis à vis* the suspect.²⁰⁸ But Eymerich did feel it necessary to encourage the inquisitor to enforce his rights over the appeal. Eymerich is apparently not dealing here with theory. He makes it clear that he has experience of appeals to Avignon.²⁰⁹ The various *damna* or disadvantages that come from appeals to the Holy See represented to some extent personal experience. Indeed there is a personal, almost self-pitying tone here, which is absent in Gui.

The evidence seems to be that in Eymerich’s time inquisitorial activity had become more part of mainstream legal business and that the degree of insulation Gui had enjoyed, at least in theory, had become eroded. Indeed the picture Eymerich paints is that inquisitorial work is delayed and resources diverted by continuing appeals, a process of which he does not have a high opinion. He sees it as a system manipulated by heretics to delay the inquisition and gain more opportunity to spread heresy.²¹⁰ This picture is consistent with what is known about legal actions taken against Eymerich by Valencian Dominican nuns in 1367 in response to an action by Eymerich against them on grounds of heresy. Some light is shed on this incident by royal correspondence, in which in 1365, when Eymerich’s action began, Peter IV expressed himself

²⁰⁷ Ibid., p. 299, fols CXXIX^r - CXXIX^v.

²⁰⁸ Ibid., p. 299, fol. CXXIX^r.

²⁰⁹ Ibid., p. 302, fol. CXXX^v.

²¹⁰ Ibid., p. 303, fol. CXXXI^r: ‘The second damaging aspect is that heretics [...] seeing the inquisitors exhausted and detained by such matters raise their horns and look on with contempt and act malignantly, resist and the more boldly sow heresies [...]; Secundum damnum est, quod hæretici [...] videntes inquisitores per similes sibi in Romana curia fatigari et detineri, erigent sibi cornua, et contemnent, ac malignabuntur; resistent, et audacius hæreses seminabunt [...].’

as keen to make sure he secured any funds flowing from Eymerich's action.²¹¹ The case led to a concerted appeal by the Dominican nuns against Eymerich, the precise grounds of which are unknown. Nevertheless at this point Eymerich seems to have secured the support of the king, which of course he later lost. What can be drawn from this case is that the use of appeals had become a part of the game; and that there was keen royal interest in some cases.

In Ugolini appeals conform more to the Eymerich or rather the Guido de Baysio model. They may not be made by someone who has been confirmed as a heretic but until that point in the process has been reached appeals may be made to either the Pope or in certain circumstances a local bishop.²¹² This apparent softening of the inquisition process in the 14th century by allowing appeals has echoes elsewhere. Célestin Douais published a Languedoc case from 1337.²¹³ This shows the suspect both demanding adjournments in the proceedings and producing his own defence and witnesses.²¹⁴ This was a return towards ordinary and more adversarial canon law procedures and away from the more inquisitorial procedures that Gui sets out.

One feature of Eymerich's description of appeals should be noted. Appeals were now within the inquisitorial process itself, and not against its results, which in effect made the inquisition more an independent institution parallel to the normal Church hierarchy and reinforced the inquisition's separateness. It can be seen as part of the process of institutionalisation discussed in Chapter VII.

Interrogatoria

Interrogatoria also reflect change in the process of inquisition. The use of *interrogatoria* or lists of questions which establish heretical action and belief stems back to earlier times in the Languedoc. The Council of Narbonne in 1243 told the inquisitors that they could judge people to be *credentes* or believers on the basis of actions including in the case of Cathars performing the *adoratio* or receiving the rite of *consolamentum/hereticatio* or accepting blessed bread, as

²¹¹ *Zur Vorgeschichte*, p. 103.

²¹² *Tractatus*, pp.189-90.

²¹³ Célestin Douais, *La Procédure Inquisitoriale en Languedoc au Quatorzième Siècle*, (Toulouse: Privat, 1900).

²¹⁴ *Ibid.*, pp. 51-71.

well as believing that heretics or Waldensians to be good or holy men and that in their sect they could be saved.²¹⁵ This is converted into a single set of *interrogatoria* in the *Ordo processus Narbonensis* (1244–1254) and continued in the *Doctrina de modo procedendi contra hæreticos* (1270s).²¹⁶ The Council of Narbonne in 1243 also made it clear that individual heretical facts or instances of heretical practice did not prove guilt; but several taken together could help do that. No precise rule is given.²¹⁷ Guido Fulcodii also gave a consultation at around the same time as the Council of Narbonne (the date is not definitely established) stressing that guilt as a *credens* could most realistically be established by participation in rites such as *adoratio* and *consolamentum/hereticatio*. Such acts were the best way of getting into a suspect's mind. Similarly actions of support for heretics, such as giving alms, proved one to be a *fautor*, but attendance at heretical sermons was inconclusive.²¹⁸ Lucy Sackville has pointed out that in the 12th century there was a close link between the list of actions the councils defined and the picture of heresy which inquisition material presents. She also notes that there was little concern at this time with doctrinal error.²¹⁹

Gui's *interrogatoria* differ from earlier Languedoc versions in that there is no longer a single version but several, each one tailored to a particular heresy. With the arrival of new heresies the old single formulation had probably proved inadequate. Indeed one of Gui's reasons for assembling and writing the *Practica* may well have been to provide or record further *interrogatoria* needed for pseudo-Apostles, Beguins, rejudaising Jewish converts, magicians and the followers of Dolcino.

Gui does not prescribe these *interrogatoria* as the only way of interrogating suspects and advises inquisitors to follow up the evidence of those accusing or giving evidence or to use their own ingenuity as well as using the *interrogatoria* 'as the Lord will direct: sicut Dominus ministrabit'.²²⁰ He also says that new lines of questioning sometimes arise through the 'good

²¹⁵ *Texte zur Inquisition*, pp. 67-8.

²¹⁶ *Ibid.*, pp. 71-72 and *Thesaurus novus anecdotorum*, V, col. 1805.

²¹⁷ *Texte zur Inquisition*, p. 68: 'These [heretical facts] and similar ones, even if they individually do not prove [heresy], will in numbers help [...]: Hæc enim et similia, etsi non probent singula, multa juvant [...]'.
²¹⁸ Vasil Bivolarov, *Inquisitoren-Handbücher* (Munich: Harrassowitz Verlag, 2014), pp.240-41.

²¹⁹ Sackville, *Heresy and Heretics*, p.134.

²²⁰ *Practica*, p. 237.

industry and shrewdness of the questioner'.²²¹ The answers to the questions in the *interrogatoria* often, but not invariably, provide the basis for the judgments, the *culpæ*, that appear in the *Sententiæ*. The pattern seems to be that in run-of-the-mill cases the *interrogatoria* are used to frame the *culpa* but that the more important cases (e.g. Pierre Raimond des Hugous) have non-standard *culpæ*.²²² D'Ablis seems to have used a similar *interrogatoria* e.g. in the case of Alamande de Vicdessos.²²³ Even Fournier, although he usually interviews discursively, sometimes used a similar formulaic approach e.g. in the interviews of the witnesses in the case of Bernardus Franca.²²⁴

The use of *interrogatoria* in many routine cases by all three inquisitors provided a straightforward and reliable means of establishing heretical belief; if a suspect exhibited some or all of the various behaviours set out in (e.g.) the *interrogatoria* for Cathars, including adoration, accepting blessed bread or being present at a *consolamentum* or heretication, and admitted to believing that Cathar good men could provide salvation, the facts established could be used as proof of guilt and an incentive to confession and abjuration.²²⁵ More effort would be devoted to more important cases where heresy could be established in other ways including by theological analysis. The *interrogatoria* would provide a framework within which a confession could be made both of heretical actions and in most cases heretical belief.

However, it is also possible to see *interrogatoria* in a more coercive light. Thomas Krämer has argued that *interrogatoria* were used, together with torture, to provide a series of consistent confessions at the Templars' trial.²²⁶ By providing a set menu of questions those interrogating the Templars could elicit confessions with a great deal of similarity, or rather the inquisitors could 'tailor their own realities'.²²⁷ Krämer quotes Gui's remark about recording 'those things which more truthfully touch the substance or nature of the fact and which seem more to express the truth: ille que magis verisimiliter tangent substantiam vel naturam facti et que magis

²²¹ Ibid., p. 243: '*per bonam industriam et sollertiam inquirentis*'.

²²² *Sententiæ*, pp. 846-52.

²²³ D'Ablis register, pp. 240-48.

²²⁴ Fournier register, I, pp. 350-54.

²²⁵ *Practica*, pp. 242-43.

²²⁶ Thomas Krämer, 'Terror, Torture and the Truth: The Testimonies of the Templars Revisited', in *The Debate on the Trial of the Templars*, ed. by Jochen Burgtorf, Paul Crawford and Helen Nicholson (Farnham: Ashgate, 2010), pp. 71-85.

²²⁷ Ibid., p. 85.

videntur exprimere veritatem.’²²⁸ There is ample suspicion that the actions and beliefs confessed to by the Templars by torture were imposed by their interrogators. Gui’s remark certainly shows an attitude towards recording evidence which would not be acceptable today, when formal interrogations are or should be tape-recorded in full. But it did not necessarily show a desire actively to misrepresent or skew evidence but could equally well represent a desire to record only the evidence which was relevant to the case. The latter interpretation is preferred here because it seems more in tune with Gui’s overall approach. But it has to be admitted that his practice simply did not meet modern standards.

Interrogatoria were not the whole of formalised questioning. It was also necessary to record basic information such as the date of the hearing, the suspect’s address, whether he came spontaneously, or was summoned and the name of the inquisitor. Gui sets out that this must be recorded by the notary.²²⁹

Some of Gui’s *interrogatoria*, in line with the Guido Fulcodii consultation, tried to establish heretical belief by observable actions such as, in the case of Cathars, performing the *adoratio* towards *perfecti* and attendance at *hereticationes*; or in the case of Waldensians actions which involved their method of saying grace at meals or praying.²³⁰ But in these two cases the question of belief remained important and there were specific questions whether the heretics – Cathars or Waldensians – were an effective conduit to salvation. An admission of this belief would constitute an even better proof than actions, and a means to achieve a confession. Gui’s *interrogatoria* for Cathar suspects which asked whether the suspect believed the heretics to be ‘good and truthful men: boni homines et veraces’ or ‘believed that a person ‘hereticated: hereticata’ in the faith of the heretics (i.e. who had undergone the Cathar rite of *consolamentum*, called ‘heretication’ in the inquisitor’s terminology) could be saved’.²³¹ Similar but not identical questions were to be asked of Waldensian suspects.²³² The *interrogatoria* on the pseudo-Apostles (there were two provided) asked questions about heretical actions and about belief in the Catholic Church e.g. ‘whether the suspect believes it is the Church of God’.²³³ The

²²⁸ Ibid., p. 75; and *Practica*, pp. 243-44.

²²⁹ *Practica*, p. 236.

²³⁰ Ibid., pp. 242-43, and p. 256. The terms used here are those used by the inquisitors rather than those used by suspects or heretics.

²³¹ Ibid., p. 242: ‘[...] si credidit quod persona hereticata in fide hereticorum posset salvari.’

²³² Ibid., pp. 256-57.

²³³ Ibid., p. 263: ‘[...] si credunt quod sit Ecclesia Dei [...].’

Beguin *interrogatoria* similarly asked about belief in nearly every proposition which defined Beguins, in addition to factual questions, whether (e.g.) they believed the sect to be good or bad.²³⁴

A slightly different pattern arises with converted Jews returning to their previous religion, and their Jewish helpers, and with magicians. The approach is to establish both the fact of conversion to Christianity and the fact of rejudaisation, which for Gui is a specific rite (the correctness of Gui's views on rejudaisation is discussed in Chapter V), which presumably was sufficient to establish belief. The outward signs of Jewish practice would establish belief, just as the *adoratio* established Cathar belief. The *interrogatoria* seem on the face of it to concentrate on returning converts rather than their helpers; but this is in line with the other *interrogatoria*. At no point does Gui provide separate *interrogatoria* for *fautores* or *receptatores*; their crimes of support necessarily depended on the discovery of heretics, and the prosecution of supporters would have proceeded from the establishment of heresy.

The *interrogatoria* for magicians is similarly mostly limited to factual questions about magical practices.²³⁵ Gui's overall attitude towards magicians is discussed in Chapter V and the *interrogatoria* reflect the cautious and ambiguous way he approached magic. For example, there is one question which uses the term 'believe' which parallels questions about belief relating to heretical sects: 'whether he (the suspect) believed things to be such as he told or taught others: *si credebat ita esse sicut alios docebat*'.²³⁶ The Latin is a little unclear because its context is unstated. The question is probably about the efficacy or reality of magic, and refers to divination and a belief in its results. If it is read in conjunction with the next question ('what goods or gifts or recompense did he have and receive for such things: *que bona seu dona aut munera pro talibus habuit et receipt?*') this interpretation becomes more likely, since 'for such things: *pro talibus*' could naturally refer to divinatory services in the previous question.²³⁷ It is not entirely clear exactly what Gui expected to achieve by such a question; all concerned in Gui's time believed in the reality or efficacy of magic (see Chapter V). The question would, however, establish the suspect's *bona fides* as a magician and that the actions he took were

²³⁴ Ibid., pp.277-82 and p. 343: '[...] *si credunt dictam sectam esse bonam vel malam* [...].'

²³⁵ Ibid., pp. 292-93.

²³⁶ Ibid., p. 293. Mollat translates the Latin as follows: 'croyait-il à la réalité de ce que les autres lui enseignaient ?' But this does not seem to translate '*alios docebat*' effectively (*Manuel de l'Inquisiteur*, vol. II, p.24.)

²³⁷ Ibid., p. 293.

intended to have magical effect rather than done in jest. That would have been relevant to finding a person guilty of magical practices. The question of itself would have established heretical belief only if Gui believed that any use of demons, whether implicitly or explicitly constituted heresy, which is discussed in Chapter V.

The Beguin *interrogatoria* are arguably the most revealing. They are extremely long, and seemingly ask about every facet of the Spirituals' affair. The writer clearly had no confidence that a small number of questions about action or belief would be sufficient to prove the suspect a heretic; there is nothing as conclusive as a well-defined rite such as the Cathar *adoratio* which establishes belief. Looking back with the benefit of hindsight we might now suggest that questions about poverty or the powers of the Pope vis-à-vis religious orders and their vows, both of which are covered in Gui's *interrogatoria* might fit the bill.²³⁸ But Gui was much closer to the affair and must have seen the necessity, if he was to cover all those considered to be Beguins, to have a wider set of questions. Therefore he explored a number of other examples of Beguin behaviour including the gathering up of and revering the bones of the Spirituals' martyrs.²³⁹ It reflects the difficulty in fixing *interrogatoria* for each heresy, when heretical behaviours remained fluid.

There is no discussion of *interrogatoria* in *De officio* or Ugolini.

Eymerich does not provide *interrogatoria* on Gui's model. Given that, unlike Gui, Eymerich is confronted with an almost infinite number of possible categories of heretic, such *interrogatoria* would have been impossible to draft. Eymerich's approach is therefore that the accused and other witnesses should be questioned about the particular allegations and then that the case can be built up on the basis of the responses.²⁴⁰ This means in effect what constitutes heresy and heretical behaviour will be drawn up for each case. However there were dangers for the inquisition in a more bespoke approach to heretics. The lack of a set standard both for what constituted a heresy and for what constituted proof of that heresy could lead to greater challenge and this seems to be borne out by Llull and other cases.²⁴¹

²³⁸ *Practica*, p. 278; the subjects of poverty and authority/vows are on the same page.

²³⁹ *Ibid.*, p. 279.

²⁴⁰ *Directorium*, pp. 285-89, BM, fols CXXII^v - CXXIII^v.

²⁴¹ Heimann, pp. 75-88 and pp. 120-49.

There is evidence that Eymerich's differing use of *interrogatoria*, and Gui's hesitation when dealing with new heresies, reflected wider developments and needs. In 1972 Robert Lerner carried out an analysis of a number of cases of the so-called 'heresy of the free spirit' and found that they did not conform to a pattern and did not constitute a single coherent heresy (this has similarities to Thomas Krämer's analysis discussed above). Lerner demonstrated this showing that a papal Bull, *Ad nostrum*, which was issued at the same time as *Multorum querela/Nolentes*, was used as a template to convict or attempt to convict religious enthusiasts of varying sorts who were usually referred to as beguines.²⁴² In particular Lerner has pointed to a formulary, or *interrogatoria* in Gui's parlance, which was used against suspected beguines and which, *inter alia*, asked suspects to assent to various heretical propositions contained in *Ad nostrum*.²⁴³ Lerner demonstrates how this methodology enabled inquisitors to have a basis on which efficiently to convict those they suspected but, as Lerner wryly remarks in one case: 'It would be interesting to know whether [John Hartmann of Ossmannstedt – a suspect] could have named [the tenets of *Ad nostrum*] if they had not been supplied'²⁴⁴. Lerner uses the fact that beliefs had seemingly to be forced into a pre-existing pattern as evidence that there was no coherent heresy. But another lesson could also have been taken from this. Heresy, or heresy perceived by the Church, was diversifying and a fixed definition of each heresy, from which was drawn an objective test of whether a suspect was a heretic (the *interrogatoria*) no longer worked well.

It is not clear whether Eymerich would have been aware of these matters as difficulties when he wrote the *Directorium* and whether the possible difficulties with the *interrogatoria* method were part of his personal experience. But Gregory XI did come under pressure to mitigate the persecution of Beguins (in the North European sense), with the result that at least two Bulls were issued in 1373 to the French Inquisitor and to the Archbishops of Cologne, Trier and Mainz in 1374 ordering church authorities to allow Beguins to be reconciled.²⁴⁵ The treatment of Beguins was therefore an issue at Avignon shortly before Eymerich was there. How much this may have influenced Eymerich cannot be known; but his more flexible way of approaching the definition of heresy and its prosecution may well have met a need arising from a changing

²⁴² *CIC*, II, cols 1183-84.

²⁴³ Lerner, pp. 99-101.

²⁴⁴ *Ibid.*, p. 136.

²⁴⁵ Vidal, *Bullaire*, pp. 393-94; and Paul Fredericq, *Corpus Documentorum Inquisitionis hereticæ pravitatis neerlandicæ* (Ghent: Vuylsteke, 1889), pp. 228-31

heretical landscape, whether that was articulated or not. Eymerich's move away from *interrogatoria* for each heresy reflects the move away from the defined heresies of Gui's time towards an approach that had fewer preconceptions about the beliefs a particular heretic held. Lucy Sackville has said of the 13th century *interrogatoria*:

It is clear, then, that the list of actions that define heresy in the councils and in the consultations also define the picture of heresy that the inquisition material presents; the same ideas determine what questions are asked and what information recorded. Overall there is little concern with heresy as doctrinal error.²⁴⁶

Eymerich had moved away from the use of the list of actions defined in the 13th century to denote a heretic or a *credens*. Heretics would be found by analysing their beliefs, seemingly a more difficult task but one that fitted his ambition to patrol all the Church's boundaries. However, in some areas the inquisitor's task was made easier by changes in the definition of heresy. In the cases of heretical blasphemers and magicians Eymerich no longer needed to prove that blasphemers actually held the views they mouthed or that magicians openly revered demons.

Conclusions

One striking feature of all inquisitorial practice is that it was rule-bound. Of course there was no guarantee that rules would invariably be followed; that assurance is absent even in modern justice systems. Another striking feature is that faced with a hidden crime like heresy the inquisitors adopted some methods still used now, not least the use of informants and offers of immunity, as well as psychologically aware interviewing techniques. The period of grace was an open mechanism; but there was also a hidden world where inducements and money were used to secure results. This may have troubled the inquisitors who were concerned not to go too far; but they knew how valuable these methods of detecting suspects were. Gui deals with this delicately area indirectly; Eymerich does not mention it.

Gui and Eymerich agree on the need to interrogate carefully. But there is more caution in Gui. His suspects had to be prevented from out-arguing the inquisitor and might have used devious

²⁴⁶ Sackville, *Heresy and Heretics*, p. 134.

tricks. Eymerich is more confident. The impression in the *Directorium* is that, although suspects may have used tricks, the inquisitor could equally deploy techniques to secure a conviction and could act in ways which might be seen as bad faith. Eymerich had less concern about a suspect being released, although it might be the case that his use of torture made that unlikely. This lack of concern might also reflect the fact that Eymerich was less concerned about how others viewed his work as inquisitor.

Torture was the device for resolving cases which could not otherwise be resolved. Ugolini and Eymerich had rules governing the circumstances in which torture might be used; Gui probably saw it as a last resort when all else has failed in inquisitorial interrogations. It was not the use of torture that distinguished Eymerich from his predecessors, particularly Gui, but that his system was mechanical and precise; there were detailed rules to follow, not just broad principles. Torture had become a *cæsura* in the system, more formalised than under earlier inquisitors, against which an appeal could be made. The effective threshold for using torture was low; once a suspect has come to the notice of the inquisition, torture could be applied on the grounds that a suspect's behaviour under questioning gave rise to suspicion. Eymerich was also prepared to repeat torture until he secured a result; we do not know whether this was part of Gui's or Ugolini's practice, but given the canon law view that torture should only be used once it seems unlikely. Eymerich describes in precise terms the whole of his methods, detailing how results were to be achieved. Gui leaves much unsaid about how to put pressure on suspects.

There was also a shift in the view of suspects. Eymerich saw his suspects as potentially demonically possessed and certainly cooperating with demons. Perhaps if Gui were asked he would have seen a link between demons and heresy; it was a widely held belief throughout the 13th and 14th centuries that the Devil was behind the spread of heresy. But Gui's starting point was more that heretics had to be brought to penitence and abjuration. He saw his suspects as entirely human and capable of being saved. Eymerich cast doubt on the usefulness of penitence, although he in no way disowned the Church's rules and saw his suspects as potentially possessed in some way by demonic forces, and therefore less human.

But although Eymerich may seem harsher than Gui in some ways, his inquisition was one in which appeals were possible, whereas for Gui and the two Italian works they were avoided. Under Eymerich's scheme appeals were direct to the pope, with whom the Inquisitor had the strongest links. There was less connection with the local hierarchy. *Multorum querela* had been

an attempt to reinsert the inquisition back into the local church; but appeal to the pope, and the fact that the inquisitor could more readily report directly to the pope (discussed in Chapter V) meant that by Eymerich's time the inquisition was becoming more divorced and separate from the local church.

The *Directorium's* move away from prescriptive *interrogatoria* as in the *Practica* reflects the fact that heresies had become more diverse and that applying a pre-existing template of belief to heretics may well have become ineffective. Eymerich's more generic approach offered greater flexibility but required each set of beliefs to be examined individually for heresy.

Chapters V and VI show that the inquisition, or at least Eymerich's idea of the inquisition, was moving towards having a permanent place in the Church; processes like appeals happened within the inquisition rather than within the wider Church. At the same time the inquisition's jurisdiction and, to some extent its practice, covered a wider set of heretics, which was less well-defined and more various than those which the Church faced in the 13th century. There was also a weakening of the idea that heresy necessarily involves a pertinacious belief; blasphemers and magicians could become heretics without intending to hold heterogeneous beliefs. There is a degree of sacralisation of the inquisition, and a demonization of its suspects. It is difficult to know whether there was any causal link between the changing view of suspects and the evolving inquisitorial techniques. Inquisitors were bound by the law and Eymerich's scheme for interrogation can be seen simply as an attempt to exploit the opportunities the law presents to the maximum. But Eymerich had a wider vision of the inquisitorial role than Gui. He wanted to patrol all the Church's boundaries and he saw a far wider and more various set of heretics than Gui, many of whom in his view were not driven by erroneous belief but by demonic forces. In these circumstances he may well have felt the need to use the powers available to inquisitors to the maximum. He saw the heretical threat as more far-reaching than Gui.

The consequences of these changes are discussed in the next chapter.

Chapter VII: Conclusions and Consequences

Introduction

This chapter draws together the changes in the inquisition in the 14th century described in this thesis, endeavours to place those changes in a wider context and ventures to make some tentative suggestions about their longer term significance. It broadly follows the shape of this thesis: inquisition manuals; the position of the inquisition both within the Church and vis-à-vis the secular power; how the inquisition communicated with ‘the public’; how the concept of ‘the inquisition’ and its jurisdiction changed; how interrogation methods changed; and the status of the inquisition.

Inquisition Manuals

Gui wrote one of the first inquisition manuals with a distinct authorial voice, but he also followed earlier tradition by using predominantly the materials available to, or produced by, the Toulouse inquisition to put together the *Practica*. It is a more sophisticated work in form than has sometimes been supposed and its structure would have made it an accessible and useful work for contemporary practitioners. Gui may well have written it because of the changing inquisitorial landscape with several new sects coming to the inquisitors’ attention. It is an insider’s book; it would have been of little use to someone with no previous understanding of the inquisitorial process. It set out no theoretical underpinnings for the inquisition; *inquisitio heretice pravitatis* was a given, a task to which inquisitors are appointed by their superiors and the pope. Ugolini and the anonymous *De officio* were academic legal works, text-books produced *de novo*, limited to drawing together the law on the inquisitorial process. They follow the logic of academic works and to non-practitioners they present an easily accessible route to understanding the law on inquisition. As noted in Chapter II, Dondaine liked these more academic models and saw Ugolini’s work as marking a transition from the inquisition being an ‘exceptional juridical matter’ (‘fait juridique d’exception’) to being taken over by the jurists

who endeavoured to make it a normal part of the law.¹ This led to greater precision, to the advantage of suspects, but also reinforced the inquisition itself.²

Eymerich's novelty was to write the first manual to fix the role of the inquisition within the Church as well as describing heresy in essentially Thomist terms and providing advice on the investigation and resolution of cases. Like Gui he described practice in considerable detail and in a highly systematic way. He was also a polemical writer, with as strong an authorial voice as Gui. He proposed a vision for the inquisition's role in the Church, changed the nature of some heretical offences and pushed out the boundary of the inquisition's activities. His manual was practical, academic and accessible to an outside audience.

Relationships with the Secular Arm

The relationship with the secular power was integral to the work of all inquisitors, and each relationship was defined by particular local circumstances. The *Practica* and *Sententiae* offer evidence that Gui worked closely with the French Crown, although this is not stated directly; indeed the Languedoc inquisition was paid for by the Crown and depended on the Crown's cooperation for a good part of its operation, which may well have helped shape a close relationship. One of the principal interests the Crown had in the inquisition was eliminating religious particularism in the Languedoc, which could be linked with separatist tendencies. The secular arm saw religious conformity as necessary to maintain social cohesion.

Eymerich's Aragonese inquisition was more autonomous than the Languedoc model. There was no easy cooperation with the monarchy. This was probably in some part due to Eymerich's uncompromising character but may also have been in part because heresy presented no threat to social cohesion in Aragon in Eymerich's time. The secular power did not therefore value the inquisition's activity but rather was conscious of the disruptive impact of Eymerich's targeting magicians, members of religious orders and Jews. Eymerich seemed to lack the imperative that Gui possessed to make co-operation with the secular arm work. Nor did Eymerich enjoy financial support from the Crown, which may well have further reduced any impetus to cooperate. This distance from the secular power, and no doubt some hostility towards the

¹ Dondaine, p. 119 and p. 122.

² *Ibid.*, p. 123.

Aragonese monarchy, may be one reason why Eymerich envisaged a more autonomous inquisition than Gui, and one whose relations with the secular power were more ritualised.

The relationship of the inquisition with the rest of the Church was a concern for Gui, because in his view the recent introduction of *Multorum querela* had made his inquisitorial duties more difficult. The necessity of securing a bishop's agreement to the handling of a case before the inquisitors or to the torturing of a freshly caught suspect could be difficult in practice. These relationships do not seem to represent a problem in Ugolini's or Eymerich's manual, although the requirements of canon law are duly noted. It seems that the provisions of *Multorum querela* became an accepted part of inquisitorial law in the 14th century.

The Public

The other constraint on the behaviour of the inquisition was public opinion. To a considerable extent public concerns would be manifested through the secular arm or the rest of the Church, although occasionally popular discontent could take the form of direct action against the inquisition, as happened in both the Languedoc (e.g. the '*rabies carcassoniensis*' which Gui witnessed) and Italy in Assisi around the turn of the 14th century.³ When direct action involving the wider public took place it was because of a view that the inquisition had overstepped the mark and was behaving with undue severity. The evidence is that, in part probably to avoid such disruptions, Gui took public perceptions of the inquisitions decisions very much into account and that his public utterances at *sermones* were calculated to convince at least the educated élite, the *litterati*, that the inquisitors were acting rationally. He may well also have used rhetoric aimed at the non-literate. Mass public discontent with inquisitors was not a feature of the 14th century in the Languedoc after Gui became an inquisitor. That may be linked with the fading of Catharism, which had had supporters at all levels of society; the heretics that continued - Beguines, magicians and 'rejudaizing' Jews - may have had fewer supporters.

The primary link with the public was through the *sermones*. Gui and Eymerich both explain how a *sermo generalis* should be carried out, Eymerich in considerably more detail than Gui.

³ Augustine Thompson, O. P., *Cities of God* (Pennsylvania: Pennsylvania State University Press, 2005), pp. 433-47 relates the case of Bompietro di Giovanni who, while ostensibly a guilty *relapsus* in canon law terms retained popular sympathy and whose execution caused considerable unrest.

Gui also makes it clear that some suspects would be dealt with outside the *sermones*, presumably because their cases would not be suitable for a *sermo*. Insofar as distinctions can be made it seems that Eymerich's events were more ritualised than Gui's and the discourse with the audience less rational. There was more emphasis on the 'outsideness' of heretics. But the evidence that Gui and Eymerich were significantly different is not conclusive, if only because Gui gives much less detail than Eymerich and it is therefore difficult to compare his practice fully with Eymerich's. It can only be said with confidence that the detail Eymerich lays down for the *sermones* show that ceremonial and the liminalisation of heretics were of considerable importance for him. Bethencourt sees Eymerich's *sermones* as a progenitor of the ceremonial of the later Spanish Inquisition.⁴

The Role of the Inquisition and its Jurisdiction

It was inevitable that the theory of inquisition would change in the 14th century because the nature of the heretical threat changed or was perceived to have changed. A number of events may have provoked change in thinking about inquisition, including the suppression of the Templars and the execution of Marguerite de la Porète, together with the subsequent creation of the new heresy in Germany condemned in *Ad nostrum*.⁵ A little later John XXII radically changed the heresy landscape. He made certain assertions of apostolic poverty in themselves heretical, which had not been so before; as a result the creation of a heresy was seen to depend simply on a decision of a (rather wilful) pope.⁶ There was therefore a greater variety of heresies for inquisitors to deal with; in the 13th century there had broadly only been Cathars and Waldensians. John also endeavoured to have magical practices, which had not been much on the inquisitors' radar following *Accusatus*, pursued by the inquisition. While the secular courts or bishops' courts rather than the *inquisitio heretice pravitatis* continued to take most magic cases there was a trickle of cases before the inquisitors. John's efforts on magic do not seem to have had much immediate effect, but they provided a basis for a more radical approach by Eymerich some 50 years later. With the exception of the heretics covered by *Ad nostrum*, Gui reflects all these changes in the *Practica* by giving descriptions of the new heresies, new forms of abjuration, and *interrogatoria*. Each new area is treated on the same lines as the long-standing Cathar and Waldensian heresies.

⁴ Bethencourt, p. 42.

⁵ *CIC*, II, cols 1183-84.

⁶ *Cum inter nonnullos*, *CIC*, II, cols 1229-30.

Eymerich's response to the changing nature of heresy, some 50 years later, is more radical than Gui's. Unlike Gui he does not just describe particular heresies (although he does give an academic and comprehensive list), but he also gives a generic conception of heresy as any belief pertinaciously held which is contrary to Scripture or Church teaching. Eymerich's overarching concept is that the inquisitor should police all the Church's doctrinal boundaries; and that it was for the inquisitor to take the initiative in protecting these boundaries. In parallel with this Eymerich extended what the term heresy could cover to include blasphemy and magic, even when they were done without any intent to deny Christian belief. In this he differed from Gui and Ugolini. Eymerich was well aware of the extent of the changes he was promoting. Eymerich also held a less humanistic view of suspects than Gui, took non-Christians within the inquisition's jurisdiction for a wider set of offences and had a far more formalised role for the use of torture.

The concept of inquisition formalised by Eymerich can be seen as giving the Church greater latitude to have heterodox beliefs of all kinds considered heretical; and indeed to give the inquisitor some latitude in deciding which heterodox views to pursue. Eymerich proposed a wider definition of heresy than Gui; but equally there was a set of principles against which heresy might be defined. The enhanced scope of the inquisition's jurisdiction which included all magicians (whether Christian or not) and blasphemers, as well as thinkers like Llull, could be justified in theological terms, as Eymerich did, albeit the authorities Eymerich gives for extending the scope of heretical magic and for his criteria for the use of torture do not seem strong. But it also supposed a society in which the heterodox thought of any kind was less tolerated, and the inquisition became potentially a more through-going form of social control.

The Interrogation Process

Most inquisitors in the 14th century used torture but without more information it is not possible to say whether there was a general trend to use it more often. Nor is it possible to say that torture led to more convictions than would otherwise have been the case. But it does seem likely that a system which put all doubtful cases to the question could lead to more wrongful convictions, a danger to which Eymerich was alive.⁷ It is not the use of torture itself that

⁷ *Directorium*, pp. 313-15, BM, fols CXXXV^r - CXXXVI^r.

distinguishes Eymerich from the earlier manual authors - both Gui and Ugolini allowed its use - but the fact that his system is mechanical and precise, with a series of rules to follow. Torture became a *cæsura* in the system, more formalised than under earlier inquisitors. Eymerich's threshold for using torture is lower than his predecessors; it can be applied effectively on the basis of giving rise to suspicion during questioning, once a suspect has come to the notice of the inquisition. Eymerich is also prepared to repeat torture until he secures a result; we do not know definitely whether this was part of Gui's or Ugolini's practice but it seems unlikely. Eymerich describes precisely the whole of his methods, detailing how results are to be achieved. Gui leaves almost everything unsaid about how to use torture. But in Eymerich's scheme torture has become the default device for resolving cases.

Coupled with a rationalised form of torture, Eymerich recommended a number of psychological tricks for use against suspects. This was not an area which Ugolini or *De officio* explored, and there is little evidence outside Eymerich in the 14th century for the techniques of interrogation. What is perhaps notable is that, whereas Gui was most concerned at the techniques which might successfully be used by suspects against inquisitors, Eymerich was equally concerned with the techniques inquisitors could use against suspects.⁸ This may simply reflect Eymerich's intellectual confidence; but equally it may also reflect a more atomised set of suspects who did not necessarily have the intellectual commitment to heterodoxy and therefore may have been more vulnerable to pressure.

There is other evidence for a shift in the perception of suspects. Eymerich sees some of his suspects as potentially demonically possessed and certainly co-operating with demons. If Gui had been questioned he would have certainly acknowledged a link between demons and heresy; but he saw heretics essentially as people who had to be brought to penitence. Eymerich cast doubt on the usefulness of penitence, although he in no way disowns the Church's rules. He was also less hesitant than Gui about starting an action against a suspect. Gui was concerned about reputational damage if cases do not succeed.

But in one way Eymerich does seem more liberal than Gui or Ugolini, in that he allows the possibility of appeal, a process which goes straight from the inquisitor to the pope. To some extent this, coupled with the inquisitor's own direct right of access to the pope makes the

⁸ *Practica*, p. 236; *Directorium*, pp. 291-93, BM, fols CXXV^v - CXXVI^v.

inquisition and the papacy more of a unified hierarchy. There is no evidence of Gui seeking papal support in his decisions, although that cannot be taken as proof that he did not do so. Eymerich sought papal intervention on at least two occasions and spent a considerable time in Avignon.

Status of the Inquisition

There is some tentative evidence that in the 14th century the inquisition took on more important cases than had been the case in the 13th century. Some high status individuals underwent the inquisitorial process in the 14th century, including the (senior) Templars, Le Sieur de Parthenay, the Visconti, and Llull (posthumously). It is difficult to point to any equivalent names in the previous century. Hus and Joan of Arc are cases in the 15th century where a clear part of the political calculation was that a heresy trial would help darken their reputations. The *inquisitio heretice pravitatis* never had any restrictions on its use but in practice most Cathars or Waldensians were not of very high status.⁹ Arguably this extension of the inquisition to all members of society had much to do with the widening of the idea of heresy; Parthenay and the Visconti in particular were caught up in magic issues, which were increasingly frowned upon. Llull, an intellectual dead for some 50 years before the action against him, shows Eymerich's inquisition operating in an area where traditionally the University of Paris or bishops would have acted.

Eymerich also conceived of inquisitors in quite sacralised terms, which are absent from other manuals from the first half of the 14th century. He was also an inquisitor for a large area, which in itself may have encouraged a high estimation of his role.

Significance of Changes

The link between the medieval and early modern Inquisitions is well known, although the detailed work to describe how precisely it happened has not been done (and is outside the scope of this thesis). But in general terms the historiography acknowledges not only continuity between the medieval and early modern inquisitions but also the particular impact of

⁹ The nobility in the Languedoc did show support for Catharism particularly before 1245, and some were believers. By Gui's time this support was much reduced.

Eymerich's model. Francisco Bethencourt, in his global history of the Inquisition, refers to the *Directorium* as the 'chief manual of the Inquisition' and, as already mentioned, shows how the procedures for binding in the civil power to the Inquisition's work in the *Directorium* closely model the subsequent procedures of the Spanish Inquisition.¹⁰ Henry Kamen also sees the *Directorium* as playing a substantial role and says that 'The Spanish Inquisition was based essentially on the medieval one'.¹¹ Andrea del Col notes that the *Directorium* was the most famous and most printed manual for the Roman Inquisition.¹²

Robert Moore has seen the growth of the inquisition as part of the growth of a 'persecuting society', and it is easy to see the expansion of the inquisition to cover all forms of 'non-conformity' as part of an intensification of that process. The inclusion of all Jews and most magicians within the inquisition's jurisdiction did expand its areas of concern; and the interrogation procedures Eymerich recommended may have made convictions easier to obtain. There is much in the 14th century changes to the inquisition which confirm Moore's thesis. That begs the question why and how this process happened. One answer is that what had largely been simply sinful practices in the past became more likely to be considered heretical; this is particularly true of blasphemy and magic. This change was perhaps enabled by a weakening of the need for intent or belief to prove some heretical beliefs. A magician could be a heretic whether or not he explicitly revered the demons he was exploiting. This might be portrayed as inquisitors simply trying to find new business when Catharism, one of the main reasons why the inquisition was set up, had disappeared. But that would be overly simplistic; Eymerich was as much concerned as Gui about the damage the heretics of his time could do. In our view there was a more fundamental change in the way the inquisition was viewed at least by inquisitors like Eymerich and later by the Church more generally and which was in fact one step in the process of the inquisition becoming an institution, part of the process whereby the medieval inquisition became the early modern Inquisition.

Recent thinking on the change from the medieval inquisition to the early modern was stimulated by Richard Kieckhefer, who wrote an article in the *Journal of Ecclesiastical History* in 1995 entitled 'The Office of Inquisition and Medieval Heresy; The Transition from Personal

¹⁰ *Directorium*, pp. 267-275, BM, fols CXIII^r-CXVIII^r and Bethencourt, p.42.

¹¹ Henry Kamen, *The Spanish Inquisition – An Historical Revision* (London: Weidenfeld and Nicholson, 1997), p.139.

¹² Andrea del Col, *L'Inquisizione in Italia* (Milan: Mondadori, 2006), p. 770.

to Institutional Jurisdiction'.¹³ This describes the change to the early modern model of inquisition through the concept of the inquisition becoming an institution. Kieckhefer's thesis is that the individual medieval inquisitorial jurisdictions did possess *in embryo* the characteristics of an institution in that they had some continuity in their agents, systematic record-keeping and uniformity of legislation in the form of canon law. But Kieckhefer contends they did not amount to a single institution or even several institutions because each inquisition – in Toulouse, Carcassonne, Florence or wherever – depended on a single inquisitor. 'Inquisitor' was an *officium* – a function – which individuals carried out often in conjunction with other activities and neither they nor others saw themselves as part of a greater Inquisition. He makes a careful analysis of the vocabulary used about the medieval inquisitions and concludes that there was no concept at the time of a single 'Inquisition'. He does make it clear however that these various medieval inquisitions were part of the basis on which the later Spanish and Roman Inquisitions were built, and that 'it is reasonable to speak [...] of a slow and partial transition from a purely personal to institutional jurisdiction in late medieval repression of heresy'.¹⁴ Kieckhefer's concept of 'institutionalisation' not only helps understand the difference between the medieval and early modern inquisitions but also provides a valuable conceptual framework for understanding the change in the 14th century described in this thesis.

Kieckhefer uses a test from Weber's *Economy and Society*, a test which was strictly for a 'bureaucracy' or 'bürokratische Herrschaft'.¹⁵ Bureaucracies for Weber were the form of administration which marks out modern states and were the opposite of ruling through tradition or charisma. They deliver a rational and hierarchical form of administration and can be used as a marker of how far bodies have progressed towards being modern. Kieckhefer does suggest that Weber's test is a test for institutionalisation but in this part of his work Weber himself did not call his bureaucracies 'institutions'. Indeed one can point to institutions, for example kingship, which can in practice exist over time both in a charismatic form and in a bureaucratic form. The medieval inquisitions were on the way to becoming Weberian 'bureaucracies'; Weber sets out criteria for a modern bureaucracy, most but not all of which both Gui's and Eymerich's inquisitions would pass. The criterion on which medieval inquisitions fail Weber's criteria is that they lack an 'office hierarchy' ('Amtshierarchie'), by which is meant 'the supervision of lower offices by higher ones'. Neither Gui's nor Eymerich's inquisitions were

¹³ Kieckhefer, 'The Office of Inquisition and Medieval Heresy', pp. 36-61.

¹⁴ *Ibid.*, p. 39.

¹⁵ Weber, II, pp.956-58.

controlled by a higher office or control subordinate ones. Interestingly Weber also suggests that ‘channels of appeal’ are another sign of a bureaucracy, and, while Gui’s inquisition denied any right of appeal, Eymerich did allow a systematic right of appeal at some stages of the process (see Chapter VI). He also endeavoured to strengthen his links to the papacy e.g. by getting better rights of direct access, the beginning of an *Amtshierarchie*.¹⁶ These developments can be taken as an indication that Eymerich’s concept of inquisition is moving further towards becoming a ‘bureaucracy’ in Weber’s terms.

The early modern inquisitions did fully meet the Weberian test for a ‘bureaucracy’. While law and procedures in the Spanish and Roman inquisitions were much the same as they were in the medieval inquisition, the big change was in organisational structure. One feature was that consistent standards were systematically maintained by subordinate offices reporting to the centre, the *Suprema*, a feature absent from the medieval inquisitions. The other major change was that, in the case of the Spanish Inquisition, Ferdinand and Isabella were empowered to appoint inquisitors; the responsibility for setting up and running the inquisition thereby went into secular hands, albeit the inquisitors still operated judicially under delegated powers from the pope. One of the most perennially difficult issues for the medieval inquisition, which recurs everywhere, was the relationship of the inquisition with the secular power; this change resolved that problem, albeit the Church’s role was downgraded and the role of the ‘secular arm’ and its aim of maintaining social cohesion were promoted.

However, there are other ways of conceptualising ‘institution’ besides the one used by Kieckhefer, which do not depend on Weber’s concepts of bureaucracy or hierarchy and which can be explored with benefit to extend Kieckhefer’s analysis. Sociologists such as Anthony Giddens see institutions as long-term ways of structuring society in which ‘forms of social conduct are reproduced chronically across time and space’.¹⁷ On a slightly different and more philosophical tack, John Searle stresses that activities become institutions by having clear boundaries and therefore some autonomy.¹⁸ Avner Greif, in his study of medieval commerce, *Institutions and the Path to the Modern Economy*, defines an institution as ‘a system of social

¹⁶ The pope’s decision to allow a *socius* to travel with the inquisitor without their direct superiors’ permission in effect enhanced the ability to have access to the pope (*Directorium*, p. 357, BM, CLIII^r.)

¹⁷ Anthony Giddens, *The Constitution of Society* (Cambridge: Polity Press, 1984), p. xxi and p. 17.

¹⁸ John Searle, *Making the Social World* (Oxford: Oxford University Press, 2011), pp. 90-122.

factors that conjointly generate a regularity of behavior'.¹⁹ The common thread is that an institution is a set of ideas, rules or assumptions that shape behaviour over time. To do this they must have clear boundaries and autonomy from other institutions. This definition of 'institution' raises the question at what point did the original *ad hoc inquisitio* – an inquiry – take on the force of an institution, with the ability to reproduce itself and to have clear boundaries; and with these the ability to drive behaviour by becoming the unchallengeable way of addressing problems.

Medieval inquisitors were individuals appointed to particular inquisitorial posts by the papacy and did not formally report to the secular power. Appointments were only made where heresy was perceived to be a problem. Inquisitors were the pope's delegates but did not report back routinely on individual cases. That said, a pope would take an interest in individual high profile cases. Indeed the Latin term '*inquisitio*' or 'inquisition' referred originally to an administrative technique, simply an *ad hoc* inquiry or investigation. It kept that sense in the Middle Ages and there were *inquisitiones* into matters of concern to the authorities, notably canonisations. The form of inquisition dealing with heresy, the *inquisitio hereticæ pravitatis*, also started off as an *ad hoc* way of dealing with the crime of heresy by means of an inquiry by a judge. The new system enabled a judge – the inquisitor – to start proceedings provided that he had a basis in the shape of some reports – the technical term is *fama* – that a suspect was involved in heresy.

Gui's inquisition was almost 100 years old in the Languedoc, where it had been an almost continuous presence. It certainly commanded sufficient bureaucratic resources to tackle Catharism successfully and had the ability to deal effectively with the Beguins. But there were features that still betrayed the original *ad hoc* nature of *inquisitio* and which show that the Toulousan inquisition had not yet gained the autonomy and boundaries that might mark out an institution. The continuing *ad hoc* nature of Gui's inquisition is shown by the fact that Gui saw his remit as being to act against those heresies, against which he is directed by the pope. The *Practica* describes only a limited number of heresies; his inquisition did not by and large search out new heresies among the population. There were more than enough 'traditional' heretics along with the Spirituals and Beguins created by John XXII. In theory at least, Gui's work could be finished if every last Waldensian, Cathar, Beguin and re-judaizing Jewish Christian

¹⁹ Avner Greif, *Institutions and the Path to the Modern Economy – Lessons from Medieval Trade* (Cambridge: Cambridge University Press, 2006), p. 30.

were reconciled or eliminated. When he himself sees a new heresy in the shape of the Pseudo-Apostles he asks the pope to add them to the list of heretics. His role in seeking out heretics still depends on papal direction; he sees himself as a delegate with a specific function. There is still that *ad hoc* element.

But there are other ways in which Gui does not have clear boundaries. Following difficulties in Carcassonne and Albi at the beginning of the 14th century – the inquisition was chased out of Carcassonne in 1303 - the French monarchy acted both to improve conditions in inquisitorial prisons but also to curb any excesses in the inquisitorial process through Church reform. The result was two documents from the Council of Vienne in 1312, *Multorum querela* and *Nolentes*, which effectively made the taking of any substantial action by the inquisitors subject to episcopal veto. Some have seen these measures as a dead letter, which did not restrain the inquisition's activities.²⁰ But, as set out in Chapter III, neither the French king nor the papacy wished to stop the inquisition's activities, which both from different perspectives saw as essential to maintaining order. Rather they wished to ensure through these controls that the inquisition's activities did not prove counter-productive by causing disproportionate popular discontent. The appointment of Gui helped ensure that the disasters in Carcassonne and Albi at the beginning of the 14th century did not recur. Indeed a close examination of Gui's and Geoffroy d'Ablis's (his fellow inquisitor at Carcassonne) work show that they were keen to tie the church and secular authorities into their decision-making. In addition Gui's inquisition was dependent financially on the French state, which enjoyed a substantial income from inquisitorial confiscations. Gui's inquisition in fact worked in close collaboration with the other authorities in the Languedoc at that time.

This interpenetration of state and inquisition was also evident in the affair of the Templars, in which the French monarch used the Paris inquisition to achieve the downfall of the order. Philippe Le Bel went so far as to appoint his own confessor, the appropriately named William of Paris, inquisitor at Paris, to ensure his personal control at the beginning of the affair. The clear message from that affair was that the inquisition was to a large extent subservient to the French state and the papacy struggled to preserve any real autonomy.

²⁰ e.g. Lea, *Medieval Inquisition*, II, p.97.

Gui's inquisition lacked full autonomy in that others, in particular bishops could intervene in its activities. Its jurisdiction and its financing, in effect its boundaries, were not yet fixed and were shared with others. It was not itself forming behaviour but still had the characteristics of an expedient or a technique, a function or *officium* in Kieckhefer's terms. Despite its success against the Cathars, it had further to go to become an institution.

The inquisition in Eymerich's *Directorium* shows signs of increasing institutionalisation. The first and perhaps most important was the extension and rationalisation of the inquisition's jurisdiction in particular to cover most magical acts. Magic did not involve a rejection of Christian doctrine or treason against God, the classic definition of heresy, but rather a misuse of forces which all agreed were present in the world. As a result the concept of heresy was considerably extended and the inquisition itself changed. It was no longer simply involved with often highly motivated and organised heretics. Its task became even more a case of finding what was hidden and of dealing with a more diverse range of individuals. In itself this extension of jurisdiction to include magicians conferred the inquisition with a degree of permanence, since this category of heretic was unlikely to disappear. Eymerich consolidated this thinking in his *Directorium*.

But Eymerich went further, with perhaps more originality, building on this change. His conception of the inquisition was of a body which would seek out any heresy, heresy being defined as an error about those things which have been determined by the Faith. Unlike Gui his concept of inquisition did not need a superior body to set it in motion by defining heresy; it could search out heresy, which it could judge against set criteria, of its own volition. The inquisition on his model also claimed jurisdiction over heresy in written form. That had always potentially been the case. Gui had burnt the Talmud, as part of a wider anti-Semitic campaign but as his *Practica* makes clear as part of a wider campaign started by the king of France. But Eymerich saw the scrutiny of written materials as part and parcel of the inquisitor's duties. This approach is evident in Eymerich's own – not very successful – career as inquisitor. He endeavoured to show the heretical nature of the then long-dead Raymond Lull's writings. This is a *cause célèbre* in Catalan history; Lull was the greatest Catalan writer of the Middle Ages. It was Eymerich's personal campaign and although he succeeded at the time, and received papal support for the declaration that Lull's work was heretical, his judgment did not stick and in the next century the decision was reversed. But the important thing to note is that this approach is distinctly different from the conservative view of Gui about the inquisitor's role.

Eymerich gave the inquisition much wider and firmer boundaries and more autonomy in that he saw the inquisition acting far more on its own volition. The constraints imposed by *Multorum querela* are presented as a bureaucratic detail.

Eymerich, in the particular environment of Aragon also endeavoured to extend the inquisition's jurisdiction to non-Christians practising magic. In practice this proved historically less significant because of the subsequent expulsion from Spain of Jews and Muslims. The Inquisition did have jurisdiction over all Jews from 1492 but that was because non-Christians had become Christian or had left; the medieval inquisition had enjoyed that jurisdiction before Eymerich.

Eymerich's inquisition in practice was more autonomous than Gui's in other ways. This was paradoxically because heretic-hunting offered little revenue for the Crown. The Cathars in Gui's day provided, as far as we can judge, good amounts of money from confiscations. The French king was keen to retain these resources and paid inquisitors like Gui as state functionaries. But Eymerich's heretics were poor, as he himself laments in the *Directorium*. As a result the Aragonese king made the inquisition support itself from its confiscations rather than being supported by the Crown. This was a development not restricted to Aragon, and was not necessarily comfortable for those in charge of the inquisition because it increased financial pressures; but it also had the effect of increasing the inquisitors' propensity towards autonomy. At least one Catalan historian has seen this as contributing to Eymerich's undoubted independence from the Crown. Eymerich's autonomy is also apparent in his prosecutions. At least two – against the works of Raymond Llull and Astruc de Pieira, a Jewish magician – were opposed by the monarch. Eymerich's reward for these cases and other actions was two expulsions from Aragon. On the other hand, there is no evidence that Gui took on cases against the Crown's wishes and some tentative evidence that he could be obliged to drop cases by the local élite.

Eymerich's *Directorium* envisaged an inquisition which was further towards becoming an institution than Gui's; it had firmer boundaries, more autonomy and a broader jurisdiction than Gui's model. Furthermore appeals could be made within the inquisitorial process itself, and not against its results, making the inquisition more an independent parallel institution to the normal Church hierarchy and reinforced the inquisition's separateness, a further indication of institutionalisation. This institutionalisation, perhaps as much an idea as a reality, seems to

have had no immediate impact, but when the early modern inquisitions came into being, which were far more centrally driven, Eymerich provided the intellectual underpinnings, a description of the role the Holy Office would play in Church and society. This is not to claim direct cause and effect; the architects of future inquisitions did not necessarily follow the *Directorium* line by line. But the wide distribution of the *Directorium* in the 15th century must have helped pave the way. This was perhaps the main achievement of the *Directorium*.

This influence can be seen in the survival of manuscripts. As already discussed in Chapter I, while six manuscripts of Gui's work survive some thirty-four of Eymerich's have come down to us. Two of Gui's manuscripts come from Toulouse where the work was written. The other four are in the British Library, the Vatican, the Bibliothèque nationale in Paris, and the municipal library in Dôle-du-Jura.²¹ Eymerich's works are found in most (Catholic) countries – Italy, Germany, Belgium, Spain, Austria – and often in more than one centre.²² The manuscripts seem to have circulated within Dominican circles mostly after 1400. One manuscript appears in 1404 at a Dominican convent in Wimpfen in Southern Germany and most manuscripts are dated 15th century.²³ This diffusion suggests that the *Directorium* was taken up widely in the Dominican order, albeit after a lapse of some 25 years, and that it must have been used as a working document in those areas where the inquisition was active. It was printed twice in the early stages of printing once in a partial version (part 2) in 1500 and once fully in 1503. It was later printed repeatedly in an edited version as a standard inquisitorial textbook. All this suggests strongly that Eymerich was influential but gives no indication about how that influence operated. Gui's influence, at least on the basis of the diffusion of his work, cannot have been great after Eymerich's time.

It seems that at least two other features of Eymerich's work besides his conceptualisation of the inquisition had considerable long-term consequences. First his thinking on magic seems to have been influential in at least two ways. Michael Bailey has pointed to a considerable impact by Eymerich on the witch persecutions in that, as discussed in Chapter V above, he provided arguments that any use of magic (other than a limited category like palmistry) depended on demonic power and must involve a pact with demons.²⁴ Although Eymerich was more

²¹ Mollat, pp. xxv-xxix.

²² Heimann, pp. 175-82.

²³ Ibid., p. 176

²⁴ Bailey, 'From Sorcery to Witchcraft', pp. 960-90, in particular pp. 973-75.

concerned with ‘learned’ magic (a particular feature of Aragonese life at the time) this thinking was easily transferable to ‘popular’ magic, in particular witches, which was subsequently achieved through Nider’s *Formicarius*.

Second, his purely procedural thinking also had an impact on the witch-persecutions in a different way. The *Malleus maleficarum*, the witch-hunter’s manual published in 1487 bears the imprint of the *Directorium*. Christopher Mackay’s recent edition sets out how Institoris (Mackay assumes Spengler did little) adapted considerable sections of Eymerich’s work for use in the *Malleus* by replacing the generic masculine gender used by Eymerich of suspects with the feminine, to reflect the gender of (most) witches; and by replacing the figure of the inquisitor with a secular judge.²⁵ Both are done rather imperfectly. Institoris also makes even more radical changes by adjusting the level of proof required to secure a conviction. Mackay points to Institoris’s Nuremberg Handbook in which he argues that *violenta præsumptio* is sufficient for a conviction.²⁶ That is no different from Eymerich or other more academic writers; but whereas for Eymerich a *violenta suspicio* comes from (e.g.) unequivocal statements of heresy for Institoris a mere threat of possible physical harm can be taken as evidence of witchcraft. The carefully graduated levels of proof that Eymerich tried to establish are abandoned. Similarly Institoris takes up Eymerich’s idea of ‘maleficium taciturnitatis: the sorcery of silence’, which enables witches to resist torture and not confess to crimes. There are however subtle differences. Eymerich actually sees a variety of different responses to torture as well as ‘taciturnity’. Resistance did not only come from demonic forces; some were simply tenacious (*‘pertinaces’*).²⁷ Nor does he argue that he should not accept the results of the torture even when an individual does not confess. Institoris on the other hand sees a refusal to confess as simply a strong indication of guilt.²⁸

It seems that by Institoris’s time the *Directorium* was an accepted framework, on the basis of which his ideas could be developed. Institoris also took further trends in Eymerich’s thinking further than the academic Eymerich would have done. Institoris was of course working against the background of the ‘witch-craze’, a pathology which had not developed in Eymerich’s time. Eymerich, although he accepted the idea of suspect possibly being possessed by demons, was

²⁵ *Malleus maleficarum*, I, p. 73.

²⁶ *Ibid.*, p. 77 and footnote 122.

²⁷ *Directorium*, pp. 313-15, BM, fols CXXXV^r - CXXXVI^r.

²⁸ *Malleus Maleficarum*, p. 701.

not impelled by the urgency of convicting witches to see that as reason to abandon or modify substantially existing procedure.

Final Thoughts

It is possible to characterise Gui's work as essentially conservative in that, faced with a changing heresy threat, he adapted the methods of the successful Languedoc inquisition to meet that threat without great change. That probably sufficed for Gui's time and it is notable that Eymerich drew on it in his own work. But there were ways in which Gui's work was not well adapted to the changing world. Heretical movements were no longer as clearly heterodox as the Cathars or the Waldensians, and were located within the Church rather than outside. It was therefore no longer so easy to define heresies, as Gui's *interrogatoria* on Beguins show. Heresies were becoming more varied and less capable of a single definitive description against which cases could be judged, as Lerner's analysis of the 'Heresy of the Free Spirit' shows. Nor in the 14th century was the inquisition any longer a novelty and it was increasingly unrealistic to see it as temporary expedient to control a temporary problem; the Cathars might have disappeared but other heretical groups and individuals continued to appear. The need for the inquisition became permanent. Eymerich gave the inquisition a status and position within the Church, together with a definition of heresy and the work of the inquisition, which further institutionalised it. That process of institutionalisation almost certainly reflected developments in the perception of the inquisition; the inquisition increasingly became the means of choice to deal with any signs of non-conformism. Along with this went a distancing from suspects and a willingness to see some at least as being controlled by demonic forces.

As part of this setting of boundaries Eymerich seems to have been an innovator and systematiser. In particular he innovated in seeing the inquisition's jurisdiction as extending over all Jews (not just Jews converted to Christianity and their helpers), blasphemers and magicians. In this he was following secular trends where magicians were increasingly perceived as a problem and blasphemy was considered a serious offence; and in Aragon there had long been efforts amongst Dominicans to get more jurisdiction over Jews and rising popular sentiment against minorities. Eymerich also systematised in the area of torture and interrogation. His approach to torture in broad terms was not much different from Ugolini's; it was a mechanism to resolve doubtful cases. But Eymerich set a low threshold for the use of torture, or at least he had a threshold with little in the way of safeguards.

In short in the 14th century the inquisition, or at least Eymerich's concept of inquisition, changed, and became more institutionalised, in response to changes in heresy and changes in perceptions notably of magic and Jews. Other sources seem to indicate that Eymerich was reflecting wider trends. The inquisition thereby became, in concept at least at this stage, the Church's means not only to pursue heretics but to control all belief, even if the inquisitions of Eymerich's time could not realise that vision.

Super illius Specula - 1326

Super illius specula, quamvis immeriti, eius favente clementia, qui primum hominem humani quidem generis protoplasti, terrenis prælatum, divinis virtutibus adornatum, conformem et consimilem imaginini suæ fecit, revocavit profugum legem dando, ac demum liberavit captivum, reinvenit perditum, et redemit venditum merito suæ passionis, ut contemplaremur ex illa super filios hominum, qui Christianæ religionis cultu Deum intelligunt et requirunt; dolenter advertimus, quod etiam cum nostrorum turbatione viscerum cogitamus, quam plures esse solo nomine Christianos, qui relicto primo veritatis lumine, tanta erroris caligine obnubilantur, quod cum morte foedus ineunt, et pactum faciunt cum inferno: dæmonibus namque immolant, hos adorant; fabricant, ac fabricari procurant imagines; annulum vel speculum, vel phialam, vel rem quamcunque aliam magice ad dæmones inibi alligandos ab his petunt, responsa ab his recipiunt, et pro implendis pravis suis desideriis auxilia postulant, pro re foetidissima foetidam exhibet servitutem (proh dolor) huiusmodi morbus pestifer, nunc per mundum solito amplius convalescens, successive gravius inficit Christi gregem. Cum igitur ex debito suscepti pastoralis officii, oves oberrantes per devia, teneamur ad caulas Christi reducere, et excludere a grege Dominico morbidas, ne alias corrumpant: Hoc edicto in perpetuum valituro, de consilio fratrum nostrorum, monemus omnes et singulos renatos fonte baptismatis, in virtute sanctæ obedientiæ, et sub interminatione anathematis præcipientes eisdem, quod nullus ipsorum, aliquid de perversis dictis dogmatibus docere ac addiscere audeat: vel, quod execrabilius est, quomodolibet alio, in aliquo illis uti. Et quia dignum est, quod hi qui per sua opera perversa spernunt Altissimum, pœnis suis pro culpis debitis percellantur, Nos in omnes et singulos, qui contra nostra saluberrima monita et mandata facere de prædictis quicquam præsumperint, excommunicationis sententiam promulgamus, quam ipsos incurrere volumus ipso facto: statuentes firmiter, quod præter pœnas prædictas, contra tales, qui admoniti de prædictis, seu prædictorum aliquo infra octo dies a monitione computandos præfata, a præfatis non se correxerint, ad infligendas pœnas omnes et singulas, præter bonorum confiscationem dumtaxat, quas de iure merentur hæretici, per suos competentes iudices procedatur. Verum cum sit expediens, quod ad hæc tam nefanda omnis via, omnisque occasio præcludantur, de dictorum nostrorum fratrum consilio universis præcipimus, et mandamus, quod nullus eorum libellos, scripturas quascunque de prefatis damnatis erroribus quicquam continentes, habere, aut tenere, vel in ipsis studere præsumat;

quin potius volumus, et in virtute sanctæ obedientiæ, cunctis præcipimus, quod quicumque de scripturis præfatis, vel libellis quicquam habuerint, infra octo dierum spatium ab huiusmodi edicti nostri notitia computandum, totum, et in toto, et in qualibet sui parte abolere, et comburere teneantur: alioquin volumus, quod incurrant sententiam excommunicationis ipso facto, processuri contra contemtores huiusmodi (cum constiterit) ad pœnas alias graviores. Datum Avinione.

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