

# *CONTRA FIDEM CHRISTI DELINQUENTIUM: THE INQUISITION AND THE CONSTRUCTION OF ANTI-JEWISH NARRATIVES IN THE 13TH AND 14TH C.<sup>1</sup>*

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## **Abstract**

This article discusses the chronology of the different stages that determined the expansion of the inquisitorial jurisdiction over the Jews between the late twelfth century and 1376. Its fundamental goal is to inquire about the facts and responses that turned the Jews into potential targets for inquisitors. I will hold a theoretical perspective—no use-case will be addressed—aiming to describe the self-perception that the medieval inquisition had of its attributions. The discussion will mostly rely on papal bulls and documents, inquisitorial manuals, and other legal treatises and enactments.

## **Keywords**

Medieval inquisition; Religious polemics; Medieval Anti-Judaism; Canon Law; Heresy.

## **Resumen**

El presente artículo aborda, de manera cronológica, el paulatino proceso de expansión de la jurisdicción inquisitorial sobre los judíos desde finales del S. XII hasta el año 1376. Su propósito fundamental es analizar la concatenación de eventos y respuestas que acabaron por convertir a los judíos en potenciales sujetos de dicha jurisdicción. El artículo se construye sobre una perspectiva completamente teórica —en el sentido de que no se analizarán procesos concretos— con el fin de describir la percepción que la inquisición medieval poseía de sus propias atribuciones. El estudio tendrá especialmente en cuenta el contenido de las bulas papales y otros documentos eclesiásticos, así como de los manuales inquisitoriales y tratados legales de la época.

## **Palabras clave**

Inquisición medieval; polémica religiosa; antijudaísmo medieval; Derecho canónico; herejía.

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**Résumé**

Cet article aborde chronologiquement l'évolution progressive de la juridiction inquisitoriale sur les Juifs depuis la fin du XIIe siècle jusqu'en 1376. Son objectif fondamental est d'analyser la succession d'événements et de réponses qui ont fini par convertir les Juifs à des sujets de la ladite juridiction. L'article maintiendra une perspective tout à fait théorique – aucun cas précis ne sera analysé – afin de décrire la perception qu'avait l'inquisition médiévale de ses propres pouvoirs. L'étude prendra notamment en compte le contenu des bulles papales et autres documents ecclésiastiques, ainsi que des manuels inquisitoriaux et des traités juridiques de l'époque.

**Mots-clés**

Inquisition médiévale ; controverse religieuse ; antijudaïsme médiéval; Droit canonique; hérésie.

**1. Introduction**

Throughout the thirteenth and fourteenth centuries, harassment of European Jewry increased dramatically. Militant anti-Judaism in the High and Late Middle Ages adopted different forms and irradiated all aspects of social life. It was embodied in legal restrictions—within both the canonical and secular domains—, aggressive missionising, polemical literature, expulsions, and popular outbreaks of violence. In one way or another, every sector of Christian society participated in these manifestations. Notwithstanding the complexity of the phenomenon, the role played by the ecclesiastical authorities, primarily through inquisitorial trials, is well-known. The leading engagement of inquisitors in events like public burnings of the Talmud or the constant fight against relapsing converts has received wide scholarly attention<sup>3</sup>.

Admittedly, the intromission of the inquisitorial jurisdiction in Jewish affairs was a progressive process. At the dawn of the thirteenth century, the theological and legal premises on which Canon Law was erected did not offer hermeneutical coverture to extend the ecclesiastical jurisdiction over the Jews. They were non-Christians; therefore, they were not natural subjects to the regulations of the Church. Beyond the jurisdictional question, the limitations of the punitive arsenal of the religious judiciary posed a practical problem. Unlike secular justice, which primarily relied on earthly chastises, ecclesiastical courts largely depended on spiritual penalties. A non-Christian could not be excommunicated nor forced to penance. Further theoretical refinement was needed to overcome these hindrances, but twelfth-century and early thirteenth-century inquisitors still lacked it. The jurisdiction that was profiled at that time to fight against the spreading of heretical movements did not consider the Jews as a legitimate objective or a real threat to Christianity. Only the gradual development of legal theory and mechanisms from the first decades of the thirteenth century onwards allowed for widening the range of influence of religious courts.

The whole process was conditioned by a concatenation of episodes—such as the condemnation of the Talmud and the increasing assertiveness of polemical literature—that

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<sup>3</sup> See, for example, the works by COHEN, CHAZAN, ASSIS, FIDORA, GRAYZEL, TARTAKOFF and VOSE cited in the bibliographical section.

drastically shook Christian-Jewish relations. These events encouraged canonists and theologians to revisit the foundations of the juridical ties between both religions and to explore new narratives linking Judaism to regular heresies. In this sense, changes in the Church's views on Judaism largely contributed to mould the ends and means of the ecclesiastical legal framework. However, improving legal hermeneutics also opened new horizons to deal with the aspects of Judaism deemed menacing. It was a bidirectional process.

On these grounds, the object of this article is to set the chronology of the different stages that determined the expansion of the inquisitorial jurisdiction over the Jews. Its fundamental goal is to inquire about the facts and responses that turned the Jews into potential targets for inquisitors. It will intend to cover any historiographical gap in the normative chain that shaped this process. Considering the purpose of the following pages, I will exclusively describe the self-perception that the medieval inquisition had of its own attributions. As with most political and legal constructions, the ins and outs of daily practice challenged the ideal design of the inquisitorial jurisdiction as formulated in legal sources. The activities of the inquisitors were often conditioned by the attitudes of the secular lords in whose lands they were deployed, as well as by the conditions imposed by the actual needs of their office. Different territories, social contexts, and targets required multiple courses of action. They precluded unitary responses exclusively based on generalistic doctrines and decrees. However, I do not intend to deal with the practical dimension of the inquisitorial office. For this reason, I will not discuss any use-case attesting to actual procedural aspects, such as how inquisitors interacted with secular judiciaries or how evidence was evaluated. I will hold a theoretical and positive perspective to analyse how inquisitorial tribunals understood the scope of their mission as protectors of Christian unity and how this self-perception evolved. The sources I have employed have been selected following this end—in short, papal bulls and correspondence, conciliar decisions, inquisitorial manuals, and contemporary legal treatises. With this objective in mind, the study will be divided into three sections, covering a temporal line between the last quarter of the twelfth century and 1376. The reasons behind the choice of the departing point are twofold. On the one hand, it corresponds to the early emergence of the inquisitorial jurisdiction as a response to the spreading of heretical movements in Western Europe. On the other hand, this period coincides with the upsurge of Canon Law and the legal renaissance of the Holy See. Indeed, Gratian's *Decretum* is the first source that will be discussed. I will focus on Gratian's views on Judaism and heresy, which constituted the basis for the posterior development of Canon Law in this regard. Thus, the first section will address the formative period of the inquisitorial jurisdiction and its first steps in combating heresy, from its origins to approximately 1240. The second section will explore how the rising anti-Talmudic fervour and the mid-thirteenth-century disputations of Paris and Barcelona conditioned the evolution of the inquisitorial jurisdiction. Finally, the last part of the article will scrutinise the coming to maturity of the inquisitorial system and the consolidation of the prerogatives of the ecclesiastical courts over the Jews from the dawn of the fourteenth century to the publication of Nicholas Eymerich's *Directorium inquisitorum* in 1376.

## 2. Heretics, Jews, and Canonists: The Birth of Inquisitorial Jurisdiction

In 1970, Richard W. Southern noted that the development of the ecclesiastical jurisdiction became noticeable in the twelfth century<sup>4</sup>. Eighteen years later, Walter Pakter, in his book on Christian medieval jurisdictions and the Jews, observed that judicial involvement of the Church in Jewish affairs started in the twelfth century<sup>5</sup>. Medieval sources and doctrinal discussions corroborate both statements. Pakter did not quote Southern, but he reached the same conclusions. The argumentative convergence suggests that there must be a correlation between the general development of ecclesiastical jurisdiction and its extension over the Jews. Admittedly, the Church had experienced a political and intellectual renaissance since the accomplishment of the Gregorian reform in the eleventh century and its success in the clashes with the German Emperor in the next century<sup>6</sup>. The Papal See, for long subordinated to the leading European powers, outstripped the formal limits of the so-called spiritual power and emerged as an active actor in the reign of earthly politics. Canon Law, an offspring of the old Roman Law cultivated in the most eminent intellectual centres of the period, provided the formal gears and structures of the renewed papal machinery<sup>7</sup>. It is precisely the bedrock where inquisitorial jurisdiction could flourish.

In its plain meaning, the word *inquisition* referred to a procedural system in which public authorities bore most of the burden of the process. They initiated the inquest, brought accusations on suspects, gathered evidence, conducted interrogatories, and came to a decision<sup>8</sup>. The medieval *inquisitorial* method was a direct consequence of reinforcing Roman procedures. It was not an invention, but a retrieval<sup>9</sup>. It was the counterpart of the *adversarial* system, in which a private accusation initiated the process, the litigants were responsible for providing evidence to their claims, and the role of the judge was that of an arbitrator.

The papal inquisition got its name after the prosecuting method it was based on. Before delving into our subject, it is worth clarifying that the Papal inquisition never existed as a monolithic, hierarchical, and centralised institution. It was composed of autonomous courts, firstly depending on bishoprics and later on specialised inquisitors, interconnected by their common intellectual background, the legal doctrines they relied on, and, quite often, the monastic orders they belonged to. The term *inquisition* cannot thus be used in an *institutional* sense. For the sake of historiographical accuracy, it would be more appropriate to speak of inquisitors or inquisitorial courts, as Henry Ansgar Kelly

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<sup>4</sup> SOUTHERN, *Western Society and the Church in the Middle Ages*, p. 115.

<sup>5</sup> PAKTER, *Medieval Canon Law and the Jews*, p. 40.

<sup>6</sup> COLEMAN, *A History of Political Thought from the Middle Ages to the Renaissance*, pp. 19-32. Also, WHALEN, *The Medieval Papacy*, pp. 123-128.

<sup>7</sup> BRUNDAGE, *Medieval Canon Law*, pp. 44-69.

<sup>8</sup> Edward Peters defined the inquisitorial procedure as “*an intense and detailed investigation by a magistrate who controlled the procedure of a legal dispute, whether civil or criminal, from its beginning to its end*”, PETERS, *Inquisition*, p. 12.

<sup>9</sup> VERRILL, *L'inquisition*, p. 27.

denounced in a vehement article<sup>10</sup>. However, and once the terminological aspects have been clarified, I will employ the term *inquisition* in this article—in singular and lowercase—to avoid overusing longer and stunting expressions.

The link between the rise of the inquisition and the proliferation of heretical movements in the twelfth century is notorious<sup>11</sup>. By that time, several heresies had expanded across the Christian West and achieved the support of sectors of the low nobility and the peasantry. The social transformations that followed the change of millenium, the Eastern influences that reached Europe with the Crusades, and the resurgence of speculative theologies have often been pointed out as some of the main factors behind the spreading of religious dissent<sup>12</sup>. This oversimplifies the roots of the heretical hegemony of the eleventh and twelfth centuries, but its exact origins cannot be discussed here. The position of the Church in front of doctrinal dissidence was clear and unswerving. Since the institutionalisation of the Catholic dogma in Late Antiquity<sup>13</sup>, heterodoxy was perceived as a threat to the unity and continuity of the Church. Dissent was heresy, and heretics were enemies of the true Christian community and had to be eliminated.

In contrast, Catholic views on Judaism were more complex. Christian narratives placed Jews at a crossroads between heresy and paganism in a special and unique no man's land exclusively designed for them. They were depicted as treacherous and stagnant people who had fallen in disgrace. They were once beloved by God, for they were chosen to receive the first part of revelation, but they lost the divine favour when they failed to recognise the Messiah and crucified him. The position of the Church on this expatriated, unfaithful people was primarily defined by the Augustinian theses on tolerance<sup>14</sup>. Jews and Christians shared part of their beliefs, but they disagreed on essential elements. Dogmatic discrepancies such as the identity of the Messiah and his nature could have led to understand Judaism as heresy. However, Christian authorities were obliged to tolerate them. This dialectic between heresy and tolerance conditioned the attitudes of the inquisition towards the Jews throughout the thirteenth and fourteenth centuries.

At the end of the twelfth century, Canon Law placed Jews and heretics as two completely distinct juridical realities. Gratian's *Decretum*, one of the most authoritative legal texts of the Middle Ages, is a telling example of the starkly different dimensions in which both groups were situated. Concerning Judaism and other infidels, Gratian held that the Church should adopt a passive position in judicial matters since only God was entitled

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<sup>10</sup> KELLY, "Inquisition and the Prosecution of Heresy: Misconceptions and Abuses".

<sup>11</sup> For a general approach to the twelfth-century expansion of heresies, see, for instance, WAKEFIELD, *Heresy, Crusade and Inquisition in Southern France*; SMITH, *Crusade, Heresy and Inquisition in the Lands of the Crown of Aragon*; and KOLPACOFF DEANE, *A History of Medieval Heresy and Inquisition*.

<sup>12</sup> DEDIEU, *L'inquisition*, p. 16.

<sup>13</sup> The reign of Emperor Theodosius I was fundamental for the definition of Orthodoxy and the condemnation of any form of dissent. FRENCH, *The Rise of Christianity*, pp. 635-641.

<sup>14</sup> Specially developed in Book XVIII, Chapter XLVI in *De Civitate Dei*. See AUGUSTINUS, *De civitate Dei*. Psalm 58.12 was often invoked as a call for tolerance: "*Deus ostendet mihi super inimicos meos: ne occidas eos, nequando obliviscantur populi mei.*"

to judge their disbeliefs<sup>15</sup>. With this reflection, Gratian exclusively referred to purely religious aspects. This general rule did not include civil matters, social interactions with the Christian community, and attacks on the authority of the Church. The power of Christian courts was accepted in these circumstances. Obviously, the infringement of these social rules entailed a legal reaction which could be either a punishment or what we might nowadays call a civil measure. Most of the cases he presented belonged to the second category. For instance, Gratian affirmed that in marriages between a Christian woman and a Jew, the husband must convert; otherwise, the marriage would be dissolved by a bishop<sup>16</sup>.

Beyond these cases related to social coexistence, Gratian only admitted the direct intervention of the Church against Jews returning to their old infidelity. His starting point was the well-rooted principle that Jews could not be coerced to join the Christian faith. They had to be persuaded with arguments and kindness<sup>17</sup>. However, they could be forced to remain Christians once baptised—even if they took it under coercion<sup>18</sup>. According to the *Decretum*, the religious jurisdiction could intervene to prevent a potential apostasy<sup>19</sup> or reverse it once committed<sup>20</sup>. Despite being the exception to his general abstentionist position, this scenario can hardly be considered a genuine involvement in Jewish affairs. Apostates were officially Christians; therefore, the ecclesiastical jurisdiction would not extend beyond its natural borders.

However, Gratian did not detail the procedural aspects. He did not specify whether the process would be conducted entirely under the ecclesiastical jurisdiction or whether the secular arm was expected to play a part. The election of the sources suggests that Gratian's approach was theoretical rather than practical. He collected and discussed the regulations of the Church but was unconcerned about their implementation. His sources on the legal treatment of converts maintaining ties with their former community were drawn from the Fourth Council of Toledo (633). On their part, the actions that should be undertaken against apostates were set in the Fifth Council of Toledo (636). Both

<sup>15</sup> GRATIANUS, *Decretum magistri Gratiani*, Pars II, Causa XXIII, Questio IV, Canon XVI.

<sup>16</sup> GRATIANUS, *Decretum magistri Gratiani*, Pars II, Causa XXVIII, Questio I, Canon X.

<sup>17</sup> “*Qui sincera intentione extraneos a Christiana religione ad fidem cupiunt rectam adducere, blandimentis debent, non asperitatibus studere, ne quorum mentem reddita a plano ratio poterat prouocare, pellat procul aduersitas.*” GRATIANUS, *Decretum magistri Gratiani*, Pars I, Distinctio XLV, Canon III.

<sup>18</sup> “*Qui autem iam pridem ad Christianitatem coacti sunt (...) et baptismi gratiam suscepisse, et crismate unctos esse, et corporis Domini exitisse participes, oportet, ut fidem, quam ui uel necessitate suscepunt, tenere cogantur, ne nomen Domini blasphemetur, et fides, quam suscepunt, uilis ac contemptibilis, habeatur.*” GRATIANUS, *Decretum magistri Gratiani*, Pars I, Distinctio XLV, Canon V.

<sup>19</sup> “*Quicumque ergo amodo ex his, qui baptizati sunt, infidelium consortia non uitauerint, et hi Christianis donentur, et illi publicis cedibus deputentur.*” GRATIANUS, *Decretum magistri Gratiani*, Pars II, Causa XXVIII, Questio I, Canon XII.

<sup>20</sup> “*Huiusmodi transgressores pontificali auctoritate correcti ad cultum Christianae dignitatis reuocentur, ut quos propria uoluntas non emendat animaduersio sacerdotalis coerceat. Eos autem, quos circumciderunt, si filii eorum sunt, a parentum consortio separentur; si serui, pro iniuria corporis sui libertatis tradantur.*” GRATIANUS, *Decretum magistri Gratiani*, Pars II, Causa XXVIII, Questio I, Canon XII.

councils were held under the auspices of a political entity and a legal culture<sup>21</sup> that disappeared many centuries before the Gregorian reform, the rise of scholasticism, and the consolidation of Canon Law.

Gratian's views on Judaism contrast with the vehemency of his approach to heresy. Unlike Jews, heretics were to be compelled to embrace Catholicism by force. Otherwise, they had to be punished with the aid of the secular powers. The *Decretum* recalls the story of Saint Paul, who was overthrown from his horse and blinded by God before his epiphany:

*“Scismatici dicunt: cui Christus uim intulit, quem coegit? Ecce habent apostolum Paulum. Agnoscant in eo prius cogentem Christum, postea docentem: prius ferientem, postea consolantem. Mirum est autem, quomodo ille, qui pena corporis ad euangelium coactus intrauit, plus omnibus illis laborauit, qui solo uerbo uocati sunt, in euangelio, et quem maior timor compulit ad karitatem, eius perfecta karitas foras mittit timorem. Cur ergo non cogeret ecclesia perditos filios, ut redirent, si perditii filii coegerunt alios, ut perirent? Quamuis et illos, quos non coegerunt, sed tantummodo seduxerunt, si per terribiles et salubres leges in eius gremio reuocentur, blandius pia mater amplectitur, et de illis multo amplius, quam de his, quos numquam perdidit, gratulatur.”*<sup>22</sup>

Therefore, an act of violence motivated the conversion of Paul. The apostle was forced to abandon his heresy and accept Christ. The treatment of this narration is nonetheless curious. Paul was not a heretic who had deviated from the true dogma, but a Jew who had not previously accepted Christ. Paul could have become a precedent to justify forced conversion, but he was linked to the fight of heresy. Then the *Decretum* insisted on the admissibility of physical coercion to bring dissidents back to faith:

*“«Quod errauerat,» inquit Dominus, «non reuocastis, et quod perierat non requisistis.» Hoc uobis per nos ipse Deus facit, ipse obsecrando, ipse minando, siue corripiendo, siue dampnis, siue laboribus, siue per ammonitiones suas occultas uel uisitationes, siue per potestatum temporalium leges.”*<sup>23</sup>

The *Decretum* is a comprehensive review of the approach of the Church to heresy as a legal problem. Following idiosyncrasy and juridical reasoning, Pope Lucius III prepared the grounds for a jurisdictional and military offensive to eradicate the dissenting move-

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<sup>21</sup> The Visigoth kingdom elaborated some of the more restrictive rules against its Jewry of the Early Middle Ages. They were compiled in the *Liber Iudicum*—or *Lex visigothorum*—, twelfth book, *De removendis pressuris et omnium haereticorum sectis extirpandis*. See, [ANONYMOUS], *Liber iudicum popularis*.

<sup>22</sup> GRATIANUS, *Decretum magistri Gratiani*, Pars II, Causa XXIII, Questio VI, c. I.

<sup>23</sup> GRATIANUS, *Decretum magistri Gratiani*, Pars II, Causa XXIII, Questio VI, c. II.

ments that had flourished along the Catholic World. The Bull *Ad Abolendam*, which the Pope addressed to Emperor Ferdinand I in 1184, was the first relevant step of the Church towards this objective<sup>24</sup>. As usual, the common name of the bull was derived from its first words: ‘*Ad abolendam diversarum heresum pravitatem*’. To destroy the perversity of the different heresies. This first syntagm was an explicit declaration of intentions. With this decree, Pope Lucius attempted to systematise and homogenise the prosecution of dissident movements by enhancing the cooperation between religious and lay authorities. Six heresies were identified (‘*censeatur*’) to be fought by the Imperial forces: Cathars, Patarins, Waldensians (‘*humiliatos vel pauperes de Lugduno*’), Pasagians, Arnaldists, and Josephines. Nevertheless, the Emperor was, in fact, only the symbolic recipient of the Pope’s mission. Most of these heretical movements had their primary nuclei of influence outside the real frontiers of the Holy Roman Empire. It might be assumed that the Pope addressed him as the formal temporal ruler of Christendom. That is to say, it was a protocollary and ceremonious formula to stress the duty of any Christian prince to proceed against heresy. Therefore, Lucius’ appeal to the ‘*imperialis fortitudinis suffragante potentia*’ must be interpreted as a call for the engagement of the entire temporal power in this mission. The scope of the statement is evident when the bull insists that the burden of this mission is to be assumed by every bishop—the elementary instance in the prosecution of heresy—and every Christian.

Once captured and condemned by religious authorities, the listed heretics had to be removed from public and ministerial offices and excommunicated. If they persisted in their heresy, they would be delivered to the lay authorities for an earthly process<sup>25</sup>. The limits of the spiritual power, a feature that conditioned the task of the papal inquisition throughout its lifetime, are clearly reflected in the dualistic design of the inquisitorial process. As *Ad abolendam* evinced, ecclesiastic authorities could not supplant the jurisdictional attributions of lay lords. Only spiritual penalties could be universally imposed by inquisitors, while temporal punishment inevitably remained in the hands of the local authorities. The Church had to conform to exert political pressure on barons and princes to meet their compromises. The coercive measures decreed to ensure the implementation of the bull also attest to this reality: Bishops who neglected their duties against heresy were to be suspended from office for three years<sup>26</sup>, whereas reckless lords and cities could solely be threatened with excommunication<sup>27</sup>.

<sup>24</sup> LUCIUS III, *Ad abolendam*.

<sup>25</sup> LUCIUS III, *Ad abolendam*., pp. 1298-1299.

<sup>26</sup> “*Auctoritate apostolica statuantes ut si quis de ordine episcoporum negligens in his fuerit vel desidiosus inventus, per triennale spatium ab episcopali habeatur dignitate et administratione suspensus*”. LUCIUS III, *Ad abolendam*., p. 1299.

<sup>27</sup> “*Si vero id observare noluerunt, honore quem obtinent spolientur, et ad alios nullatenus assumantur, eis nihilominus excommunicatione ligandis et terris ipsorum interdicto Ecclesiae supponendis. Civitas autem qua his decretalibus institutis duxerit resistendum, vel contra commonitionem episcopi punire neglexerit resistente, aliarum careat commercio civitatum et episcopali se noverit dignitate privandam*.”. LUCIUS III, *Ad abolendam*., p. 1299.



*Ad abolendam* contained some of the essential traits of the late-medieval inquisition, such as the dualistic conception of the process and the cooperation between religious and secular judiciaries. Notwithstanding the importance of this bull in systematising the persecution of heresy, *Ad abolendam* was unable to prevent the propagation of dissent, especially of Catharism in the Midi. In the next decade, the papacy redoubled its efforts to materialise its anti-heretical policy and to improve the inquisitorial system. It was the main objective pursued in the Council of Montpellier, held in 1195, where the attendees agreed to ensure the effectiveness of the constitutions established in the Third Lateran Council<sup>28</sup> and to strengthen the cooperation between the papal agents and local lords<sup>29</sup>. In 1199, Pope Innocent III issued the bull *Vergentis in senium*<sup>30</sup>, whose tone was sharply more belligerent. The text abounded in eschatological allegories and biblical and medical references. Heretics were depicted as a cancer which ‘*amplius serperet in occulto et jam in aperto suae virus iniquitatis effundat*’<sup>31</sup>. They were deemed a product and cause of the degeneration inflicted by the passing of time, agents of the corruption of creation and an obstacle towards human redemption. They were compared to Achan, who revolted against Joshua and stole gold and goods from Jericho<sup>32</sup>; and then to Abiron, Dathan and Core, who headed a rebellion against Moses and Aaron<sup>33</sup>. Parallelisms between these biblical narrations and the attitude of the Church against heresy are evident. Both episodes presented cases of criminal uprisings against legitimate rulers and Divine will. In both cases, the culprits were dully castigated: Abiron, Dathan and Core were burned by God’s wrath, and Achan got his goods confiscated before being stoned together with his sons. In the first case, the traitors were chastised by God, that is, through a spiritual punishment. In the second case, they were executed by the people—the secular power. There are still more similarities. Achan repented and acknowledged that he had sinned against God by confessing his guilt. However, it did not release him from the temporal punishment. Finally, in the narration from the Book of Numbers, God exterminated the rebellion’s leaders and those who had any contact with them.

The two narrations provided, therefore, the elementary patterns of the process against heresy: it targeted criminals who had revolted against God and his delegates; they were to be spiritually and temporally judged; spiritual repentance did not exclude the temporal punishment; they had to have their goods confiscated; and anyone who cooperated with

<sup>28</sup> “[III] *Rursus omnes hereticos (...) de consensu omnium sub anathemate posuit, et constitutione Lateranensis concilii, que contra huiusmodi emanavit, in omnibus observata, constituit ut bona huiusmodi pestilentium hominum publicentur et ipsi nihilominus servitute subdantur*”. GRAU TORRAS *et al.*, *L’herètica pravitat a la Corona d’Aragó (Vol. 1)*, doc. 11.

<sup>29</sup> “[XX] *In fine quoque omnium addidit, ut quia in pluribus locis provincie Narbonensis heretici sunt, in consilio archiepiscopi et episcoporum sit qualiter pro eorum, que superius statuta sunt, transgressione, interdicta debeant promulgari; ne occasione generalis et diutini interdicti, hereticis occasio pateat ad simplices catholice fide supplantandos*”. GRAU TORRAS *et al.*, *L’herètica pravitat a la Corona d’Aragó (Vol. 1)*, doc. 11.

<sup>30</sup> INNOCENTIUS III, *Vergentis in Senium*.

<sup>31</sup> INNOCENTIUS III, *Vergentis in Senium*, p. 538.

<sup>32</sup> Joshua 7.

<sup>33</sup> Numbers 16.

them was deemed a heretic too. *Ad abolendam* and *Vergentis* relied on this scheme. However, Innocent III added an essential note in *Vergentis* by categorising heresy as a crime of *lèse-majesté* ('*reis laesae majestatis*'). In Roman Law, the *lèse-majesté* implied a direct treason to the emperor and the State, an idea the Pope considered worthy of recovering and reformulating. In *Vergentis*, Innocent recalled that the role of Christ as the father of the Christian family ('*Patrefamilias evangelico deputati*') had been assumed by the Pope as His vicar ('*oves Christi commissae*'). The continuity of Christ's leadership in the figure of the Pope entailed for Innocent an assimilation of the papal office to the Imperial dignity. This movement gave him grounds to place heretics as criminals of *lèse-majesté*. As Ullman noted, Innocent transformed heresy into treason to the Papacy as the depositary of the spiritual monarchy and to the *corpus chistianorum*<sup>34</sup>. In other words, heresy became a treason to God Himself.

The escalation of the conflict with the heretics and their baronial protectors peaked when the Albigensian crusade was summoned in 1209<sup>35</sup>. A coordinated military campaign sanctioned by the Holy See was a significant reaction, but an armed course of action was insufficient to combat dissension and secession. It was necessary to establish straightforward legal and political mechanisms to identify and fight subversive doctrines potentially dangerous for Christian unity when they could not be turned into military targets. The Fourth Lateran Council, held in 1215, endeavoured to steer this task. Innocent III conceived the council as a communicative strategy to conduct a profound reform to increase papal power and influence<sup>36</sup>. The main objective of the synod was, indeed, to reaffirm the doctrinal unity of the Christian Body against any heterodoxy. This primal goal was explicitly stated in the first constitution<sup>37</sup>, where the basics of the Christian dogma were presented. God, the statement began, is one and eternal, wherein three persons coexist in one single substance. The text continued stressing that devils were created good but became evil because of their deeds and induced men to sin. This last remark was a direct critique of the Cathar belief in the evilness of this world as God willingly created it. The constitution closed with a reflection on the nature of the spiritual body of the Church:

*“Una vero est fidelium universalis Ecclesia extra quam nullus omnino salvatur in qua idem ipse sacerdos et sacrificium Iesus Christus cuius corpus et sanguis in sacramento altaris sub speciebus panis et vini veraciter continentur transsubstantiatis pane in corpus et vino in sanguinem potestate divina ut ad perficiendum mysterium unitatis accipiamus ipsi de suo quod accepit ipse de nostro.”*<sup>38</sup>

<sup>34</sup> ULLMAN, “The Significance of Innocent III’s decretal *Vergentis*”. See also, BELDA INIESTA, “*Excommunicamus et Anathematisamus*: predicación, confesión e inquisición como respuesta a la herejía medieval (1184-1233)”, p. 104.

<sup>35</sup> On the military and political aspects of the Albigensian Crusade, see GRAHAM-LEIGH, *The Southern French Nobility and the Albigensian Crusade*, pp. 58f; MARVIN, *The Occitan War*; SMITH, *Crusade, Heresy and Inquisition in the Lands of the Crown of Aragon*, pp. 13-39.

<sup>36</sup> WAYNO, “Rethinking the Fourth Lateran Council of 1215”, pp. 616-621.

<sup>37</sup> [ANONYMOUS], “Concilium Lateranense IV — 1215”, pp. 230-231.

<sup>38</sup> [ANONYMOUS], “Concilium Lateranense IV — 1215”, p. 230.

Thus, the Church was presented as a single and harmonic body, both politically and spiritually. Any internal discrepancy against this dogma was to be perceived as a threat to Christian unity, a treason against the apostolate, and an infection of the body to be physically eradicated. The initial statement recalled the faith declarations that headed the Councils of Nicaea (325)<sup>39</sup> and Constantinople (381)<sup>40</sup>, both held during the formative period of the Church. The Pauline idea of the body as a symbol of the unity of the Christian communities<sup>41</sup>, as was underscored in the First Council of Constantinople, was invoked to vindicate the orthodoxy of faith<sup>42</sup>.

The third constitution stated that those Christians who fell out of this creed were to be deemed heretics and be processed and excommunicated as such. As in *Ad abolendam* and *Vergentis*, the Pope insisted on the need for a close collaboration between secular and religious authorities. The dual structure of the process was preserved: once condemned by the religious authorities with a spiritual penalty, culprits had to be delivered to the secular authorities for earthly punishment. Besides confirming the procedural principles established in former bulls and councils, Innocent III took advantage of the Council to put more pressure on the secular powers. He admonished lords and princes to fulfil their compromises against heretics under the menace of excommunication, a threat that was already employed in *Ad abolendam*. However, he elevated the tone by adding that if suzerains neglected their duties and disregarded the admonishment of religious officials for a year, their serfs would be relieved from their feudal oaths, the Church would seize their goods, and a new faithful Catholic lord would occupy lands<sup>43</sup>.

The Council granted a completely different treatment to Jews. Four measures were adopted to regulate their social interactions with Christian societies: prohibition of excessive usury; obligation to wear distinctive clothes and to not appear in public at certain Christian festivities; interdiction of holding public offices; and the prohibition of returning to Judaism after having accepted baptism<sup>44</sup>. No innovation is to be found in there. Most of these statutes confirmed previous rules and doctrines<sup>45</sup>, whose observance

<sup>39</sup> [ANONYMOUS], “Concilium Nicaenum I — 325”, p. 5.

<sup>40</sup> [ANONYMOUS], “Concilium Constantinopolitanum I — 381”, p. 24.

<sup>41</sup> See 1 Corinthians 12: 12 and 27; 6: 15; Ephesians 4: 4, 16 and 25; 5:30; and Colossians 2:19.

<sup>42</sup> Admittedly, the idea of *Corpus Mysticum* as a synonym for the Christian community, and not just as a synonym for the Eucharist, was still in development. The definitive association was established by Boniface VIII in the bull *Unam Sanctam* (1302). Nevertheless, the term was already used with this meaning—sometimes, as De Lubac noted, as an “*épithète de nature*”—together with the traditional expression *Corpus Christi*. See, DE LUBAC, *Corpus Mysticum*, pp. 94-98 and 116ff. See, also, KANTOROWITZ, *The King's Two Bodies*, pp. 194-206.

<sup>43</sup> [ANONYMOUS], “Concilium Lateranense IV — 1215”, pp. 233-235.

<sup>44</sup> [ANONYMOUS], “Concilium Lateranense IV — 1215”, pp. 265-267.

<sup>45</sup> For example, the attitudes towards relapsed converts were defined in the Second Nicaean Council (787). Likewise, the prohibition of holding public offices was incorporated in the *Justinian Code*. [JUSTINIANUS], “*Codex Iustinianus*”, I. IX. XVIII. For the general sources of the Fourth Lateran Council, see GARCÍA Y GARCÍA, “The Fourth Lateran Council”, p. 368.

by temporal rulers was often neglected<sup>46</sup>. The Augustinian theses and the traditional position of the Church remained unchallenged: Jews were to be tolerated, though their interaction with Christians had to be restricted.

The Fourth Lateran Council largely contributed to defining the foundations of the tenets that irradiated thirteenth-century Canon Law, including the legal positions on heresy, Jews, and the competencies of the papal inquisition<sup>47</sup>. In the next decade, the constitutions approved in the council received broad attention from legal theoreticians, who strived to incorporate them into the gears of Canon Law. One of the earlier examples of this assimilation is found in Ramon of Penyafort's *Summa de Casibus* (1224-1226)<sup>48</sup>.

The Catalan friar devoted two consecutive chapters to Jews and heretics, both placed in Book I—chapters four and five, respectively. Penyafort set a thematic relationship between the two chapters by gathering both groups—together with Saracens—under the ‘*qui male colendo Deum inhonorant*’ category. Jews were those who ‘*legem Moisaicam ad litteram tenent, se circumcidendo, & alia legalia faciendo*’<sup>49</sup>. In this chapter, Penyafort raised eight questions related to the legal status of Jews in Christian societies: i) definition of the Jewish faith; ii) forced and voluntary conversion; iii) limits to Christian-Jewish interactions; iv) penalties to infringers; v) justification of the Church's power to punish Jews; vi) regime of serfdom between Christian and Jews; vii) emancipation of infidel serfs; and viii) the Jews and the Christian tithe. These eight items summarise the framework of Christian-Jewish relations.

Penyafort was far from depicting Judaism as a heresy. He started from the well-rooted dogma on the difference between people who had known Christ and have renounced Him and those who never belonged to the Christian community. As he expressly stated, the latter ought to be drawn to faith with words and arguments and not with physical coercion<sup>50</sup>. Nevertheless, coexisting with infidels entailed potential dangers for the cohesion of the Christian society. Firm limits to social interactions were needed. Penyafort incorporated the constitutions of the Fourth Lateran Council, as well as other previous rules, like the prohibition of eating together or cohabitating. These measures were justified by the risk of Christians abandoning their religions for the infidels'. However, the most interesting aspect of this discussion for the subject we are dealing

<sup>46</sup> The case of medieval Catalonia is paradigmatic. The tradition of appointing Jews for relevant public offices—especially related to tax collection—was well-rooted and was not abolished until 1283, when King Peter *the Great* was forced to do so to ensure internal support in his war against the French crusaders. See ROMANO, *Judios al servicio de Pedro el Grande de Aragón*.

<sup>47</sup> For a bibliographical synthesis on the impact of the Fourth Lateran Council on Canon Law, see FOSSIER, “The Fourth Lateran Council and the Development of Canon Law and the *ius commune*”.

<sup>48</sup> [RAYMUNDUS DE PENIAFORT], *Summa Sti. Raymundi de Peniafort barcinonensis Ord. Pradicator. de poenitentia et matrimonio cum glossis Ioannis de Friburgo*, Roma, 1603.

<sup>49</sup> [RAYMUNDUS DE PENIAFORT], *Summa Sti. Raymundi*, p. 32.

<sup>50</sup> “*Debent autem, sicut ait G. [Gratianus, Pars I, Distinctio XLV, Canon III], tam iudaei, quam Saraceni auctoritatibus, rationibus, & blandimentis potius, quam asperitatibus ad fidem Christianam de nouo suscipiendam prouocari, non autem compelli, qui coacta seruitia non placent Deo*”. [RAYMUNDUS DE PENIAFORT], *Summa Sti. Raymundi*, pp. 32-33.

with is the range of penances for infringers. Punishing Christians who had infringed these regulations did not pose any theoretical problem to Penyafort: they were natural subjects of the ecclesiastical jurisdiction, at least regarding spiritual judgements. As in the abovementioned bulls and councils, excommunication and suspension from office were the main punitive tools.

The dilemma arose when the focus was moved towards chastising Jews. Penyafort asked himself on which grounds the Church could impose spiritual penalties on non-Christians. The solution he came up with was that the Church could impose temporal punishment on infidels and indirect spiritual sanction<sup>51</sup>. Penyafort had already elaborated on this second idea. Indeed, he discussed the legitimacy of chastising Jews after presenting the range of punishments that could be imposed upon them.

*“Si vero fuerint Iudaei, vel Sarraceni, tamdiu sunt Christiani ab illorum commercio, & communione, sub poena etiam excommunicationis districtae (...) remouendi”*<sup>52</sup>

Therefore, Penyafort recommended chastising the Jews by punishing any Christian who had interacted with them. His solution was a detour that achieved the same goal as direct excommunication: expelling individuals from their community, so they were isolated and deprived of the elemental social ties. Penyafort's position became sterner when he approached the sanctions on Jews who brought converts back to Judaism. In his own words:

*“Statuit insuper Ecclesia illos Iudaeos publicis caedibus deputandos, qui de infidelibus baptizatos subvertere attentaverint, et similes poenas, interdum etiam pecuniarias, prout qualitas delicti exposcit, saepe statuit Ecclesia contra tales, illa tamen moderatione adhibita in flagellis, quod statutum eius in vindictam sanguinis transire minime videatur: talis enim poena indistincte relinquenda est brachio seculari.”*<sup>53</sup>

In this statement, Penyafort assumed the dualistic scheme of the inquisitorial process. The Church inhibited itself from the temporal judgment—at least when religious authorities did not have direct jurisdiction—and trusted it to the secular arm. He advocated extending the powers of the inquisition beyond the literacy of the *Decretum, Ad abolendam* and *Vergentis* to include proselytising Jews—not just apostates. This implied

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<sup>51</sup> “*Quid enim mihi de his, qui foris sunt iudicare?; Solutio. Non potest Ecclesia iudicare dei his ; ; vt infligat eis poenam spiritualem, vel imponat religionis regulas : sed poenas temporales potest eis infligere, & spiritualem etiam indirecte, remouendo Christianos ab eorum communione.*” [RAYMUNDUS DE PENIAFORT], *Summa Sti. Raymundi*, p. 35.

<sup>52</sup> [RAYMUNDUS DE PENIAFORT], *Summa Sti. Raymundi*, p. 35.

<sup>53</sup> [RAYMUNDUS DE PENIAFORT], *Summa Sti. Raymundi*, p. 35.

a qualitative step forward in the evolution of the papal inquisition, whose object will no longer be limited to eradicating heresy, but to the protection of the Christian body in a broader sense.

Penyafort solely identified one single criminal typology justifying the intervention of the Church for purely religious matters. Admittedly, his argument timidly built a bridge between heresy and Jewish proselytism as actual threats to the Christian community. However, Penyafort kept clear and stark boundaries between Judaism and heresy from a legal and theological perspective<sup>54</sup>. As noted, the main difference that predetermined the approach to both groups was that heretics had once been Catholics, while Jews had never accepted Christ. Indeed, Penyafort categorised Jews and pagans as those who *'per infidelitatem Deum inhonorant'* and heretics as those who *'a fide deviantes in Deum multipliciter peccant'*. Heretics had reneged on the Catholic dogmas and voluntarily embraced false beliefs<sup>55</sup>. As long as they accepted the supremacy of the Church and did not act against it, Jews had to be tolerated. However, heretics and their collaborators had to be punished with *'excommunicatione, depositione, rerum ablatione, & militari persecutione'*<sup>56</sup>. That is to say, there was no other possible policy against them than extermination.

The decretals that Penyafort selected for Gregory IX's collection shed light on this distinction<sup>57</sup>. Decretal V.VI.IX, relying on the bull *Sicut Iudaeis* issued by Clement III<sup>58</sup>, recalled that Christians must tolerate Jews:

*"Iudaei inviti non sunt baptizandi, nec ad hoc cogendi, nec sine iudicio puniendi, aut rebus suis spoliandi, vel in suis festivitatibus molestandi, nec ipsorum coemeteria violanda, aut eorum corpora exhumanda"*

The power of the Church to prosecute, judge and punish proselytising Jews and relapsed converts was incorporated in the ninth title of the same book, in a section devoted explicitly to apostasy. Innocent III issued the decretal<sup>59</sup>:

<sup>54</sup> Penyafort's definitions of heresy mainly were borrowed from Gratian and Bernardo di Pavia. GRAU TORRAS, "Ramon de Penyafort i el procediment inquisitorial contra els heretges", p. 150.

<sup>55</sup> In his *Etymologies*, Isidore of Seville emphasized the voluntary nature of heresy: "*Haeresis Graece ab electione vocatur, quod scilicet unusquisque id sibi eligat quod melius illi esse videtur, ut philosophi Peripatetici, (...) vel sicut alii qui perversum dogma cogitantes arbitrio suo de Ecclesia recesserunt*". [ISIDORUS HISPALIENSIS], *Isidori Hispalensis Episcopi Etymologiarum sive Originum* (vol. 1), L. VIIIa, Cap. III.1.

<sup>56</sup> [RAYMUNDUS DE PENIAFORT], *Summa Sti. Raymundi*, pp. 38-39.

<sup>57</sup> GREGORIUS, *Decretalium D. Gregorii Papae IX*.

<sup>58</sup> SIMONSOHN, *The Apostolic See and the Jews*, doc. 63. The bull was not collected in volume CCIV of the *Patrologia Latina* (Clemens III Papa. "Epistola et privilegia"). However, its incorporation into Gregory IX's *Decretals* turned it into a reference for posterior reissues. On the significance and evolution of the bull *Sicut iudaeis*, see GRAYZEL, "The Papal Bull *Sicut Judeis*".

<sup>59</sup> The text of the Decretal belongs to a letter sent to the Bishop of Lingones in June 1205. For the full text, see INNOCENTIUS III, "Epistolae et privilegia", pp. 630-631.

*“Postulasti per sedem apostolicam edoceri, qualiter contra Iudaeum procedere debeas, qui manus iniecit in quendam clericum violentas. Ad quod fraternitati tuae breviter respondemus, quod, si dictus Iudaeus tuae iurisdictionis existit, ipsum poena pecuniaria punias, vel alia, secundum quod convenit, temporali, faciens laeso satisfactionem congruam exhiberi; alioquin eius dominum moneas et inducas, ut passo iniuriam et ecclesiae ab eo satisfieri faciat competenter. Quod si dominus eius id neglexerit adimplere, tu Christianis omnibus per censuram ecclesiasticam interdicas, ne cum ipso Iudaeo, antequam satisfaciat, praesumant commercia exercere”<sup>60</sup>*

However, Innocent did not place the Jews under the dualistic inquisitorial process but proposed two courses of action. The offender must receive a temporal punishment if bound to the temporal ecclesiastical jurisdiction. However, if he was subject to another jurisdiction, religious authorities had to appeal to local justice to chastise the culprit. In case competent judges neglected their duty, they were to be compelled to comply with it via a spiritual penance. No indirect spiritual punishment was to be imposed on the Jewish author, except in case of a negligent authority, as a coercive measure. If there was no conflict, the whole process fell into the temporal judiciary. Therefore, no innovation was introduced in the inquisitorial process. Indeed, Penyafort relied on the bulls *Ad abolendam* and *Vergentis* to build on the framework for anti-heretical prosecution<sup>61</sup>.

### 3. The Irruption of the Talmud and the Inquisitorial Response

The compilation of the Decretals was carried out at a moment crucial to the development of the papal inquisition. Count Raymond VII of Toulouse, the last great Western lord to keep a protective policy towards his heretic subjects, capitulated to the French Crusaders in 1229. His surrender was formalised in the Treaty of Paris. The conditions placed by the victorious Crusaders included territorial losses, war reparations, and the commitment to eliminate any remaining heretical focus<sup>62</sup>. The involvement of the inquisition in this task was, indeed, one of the fundamental points of the peace agreement<sup>63</sup>. In the council held in Toulouse the same year, the Papal commissioner, bishop Folquet of Marseille, passed a constitution whereby bishops committed to designate one priest and at least three trustworthy laymen in each parish to organise the systematic sweep of heretics. The synod agreed on several additional measures aimed at specifying infractions, penalties,

<sup>60</sup> GREGORIUS, *Decretalium D. Gregorii*, V.VI.XIV.

<sup>61</sup> GREGORIUS, *Decretalium D. Gregorii*, V.VII.IX and X.

<sup>62</sup> “Promittimus (...) quod haereticos, et eorum credentes, fautores, et receptatores, in terra quam nos et nostri tenemus et tenebimus, semper totis viribus expugnabimus, non parcentes in hoc proximis, vassallis, consanguineis, nec amicis, et terram eandem purgabimus ab haereticis et haeretica foeditate, et iuvabimus etiam purgare quam D. Rex tenebit”. DEVIC and VAISSETE, *Histoire générale de Languedoc* (vol. 5), doc. CXLVI.

<sup>63</sup> TAYLOR, *Heresy, Crusade and Inquisition in Medieval Quercy*, p. 115.

and general anti-heretical lines to be observed by local lords and religious authorities. In this sense, the most notorious merit of the Council of Toulouse was that it provided a certain homogeneity to the search and eradication of heretical focuses and created stable inquisitorial structures based on parochial autonomy<sup>64</sup>.

The Treaty of Paris and the following councils consolidated the expansion of the papal inquisition in the West. However, the inquisitorial system, as it had been conceived since the bull *Ad abolendam*, had proven inefficient. Episcopal sees lacked the dynamism, personnel, and procedural agility to lead the fight against heresy<sup>65</sup>. Through the bull *Ille humani generis* (1232), Pope Gregory IX decided then to trust the formation of specialised inquisitors to the Dominican order, whose friars had already demonstrated their zeal as missionaries, theologians, and legal experts<sup>66</sup>. Indeed, his predecessor had already acknowledged their potential as inquisitors and had recommended their assistance in anti-heretical processes<sup>67</sup>. Gregory IX justified his election with passionate praise to the Dominicans:

*“Cum autem miserator et misericors Dominus, qui neminem vult perire, attendens quod messis erat multa, operarii autem pauci, dilectorum filiorum fratrum praedicatorum ordinem suscitavit, qui non sua, sed quae Jesu Christi quaerentes, tam contra profligandas haereses quam contra pestes alias mortiferas extirpandas se dedicarunt evangelizationi verbi Dei in abjectione voluntariae paupertatis; nos ejus instructi exemplo, qui et duodecim apostolos et alios septuaginta duos elegit et binos ad praedicandum ante faciem suam direxit, dictos fratres contra haereticos in Alemanniam duximus destinandos.”*<sup>68</sup>

<sup>64</sup> For the text of the synod, see JOANNES DOMINICUS MANSI, *Sacrorum conciliorum nova et amplissima collectio*, pp. 192-204.

<sup>65</sup> BELDA INIESTA, “Excommunicamus et Anathematisamus: predicación, confesión e inquisición como respuesta a la herejía medieval (1184-1233), p. 107.

<sup>66</sup> The bull sought to increase the pressure against heretics in Germany, a region where heresy had upsurged (“*licet autem haeretici diutius hactenus latitantes sicut cancer serperent in occulto et velut vulpes latentes niterentur vineam Domini demoliri jam tamen, peccatis exigentibus, in aperto quasi equi parati ad praelium praesumunt manifeste insurgere contra eam*”). The bull has been edited in FREDERICQ, *Corpus documentorum inquisitionis haereticae pravitatis neerlandicae*, pp. 82-83.

<sup>67</sup> Honorius III, in a letter sent to the archbishop of Tarragona in 1220: “*Quoniam abundavit iniquitas et refriguit caritas plurimorum, ordinem Fratrum Praedicatorum, sicut credimus, Dominus suscitavit, qui non que sua sunt, sed que Christi querentes, tam contra profligandas hereses, quam contra pestes alias mortiferas extirpandas se dedicarunt evangelizationi verbi Dei in abjectione voluntariae paupertatis (...) et dictis fratres per cooperationem tuam et aliorum fidelium roborati, suscepti ministerii cursum felicis consummant, optarum reportent sui laboris fructum et finem, salutem, videlicet, animum, ac nos devotionem tuam exinde possimus in Domino commendare*”. In GRAU TORRAS et al., *L’herètica pravitat a la Corona d’Aragó (Vol. 1)*, doc. 69. Curiously, Gregory IX quoted literally several parts of the letter in *Ille humani generis*.

<sup>68</sup> FREDERICQ, *Corpus documentorum inquisitionis haereticae pravitatis neerlandicae*, p. 83.



The convergence between the missionary zeal of the Dominicans and their newly acquired inquisitorial responsibilities became blatant in the Disputation of Paris and the process against the Talmud in the 1240s. This episode altered the views of the Church on Judaism to a significant extent. It brought profound political and intellectual changes in its Jewish policies, which, in turn, affected the traditional scope of the inquisitorial jurisdiction. The spark that ignited the event was the compilation and translation into Latin of a short selection of Talmudic passages—grouped in thirty-five articles—by the convert Nicholas Donin, who sent them to Pope Gregory IX to denounce its blasphemies against Christ<sup>69</sup>. Donin’s translation caused great commotion in Rome.

Allegedly, Christian authors had been long aware of the existence of non-biblical Jewish sources, including the Talmud<sup>70</sup>. Nevertheless, Donin’s accusations led them to discover the magnitude of the Talmud as a religious and legal work. Moreover, they came upon the fact that the Talmud was not a mere compilation of customary laws and exegetical teachings, but a source claimed to have been revealed to Moses on Mount Sinai together with the *Torah*<sup>71</sup>. Religious authorities thus found themselves in front of a revealed source, which had been compiled after the death of Christ and contained reflections on Christianity (allegedly of divine origin). These three factors had profound theological implications<sup>72</sup>. The Augustinian dogma imposing tolerance on the grounds of Jewish ignorance and stagnation in the first revelation became challenged by the existence of the Talmud<sup>73</sup>. On the other hand, attacks on Christianity coming from a revealed source were close to a manifest act of heresy. The Church saw a potential threat to the Christian community, similar to that posed by Cathars and other heretics, that had to be neutralised.

As a consequence, the Pope launched the first campaign against the Talmud, with Franciscans and, especially, the Dominicans as its spearheads. The first episode of this confrontation was the organisation of a public dispute in Paris in 1240, held by Nicholas

<sup>69</sup> For a critical edition, see CAPELLI, “*De articulis litterarum Papae: A Critical Edition*”.

<sup>70</sup> On the Christian knowledge of Jewish non-Biblical sources see DEL VALLE RODRÍGUEZ, “Los primeros contactos de la Iglesia con el Talmud: el significado de la Deuterosis”; LAMPURLANÉS FARRÉ, *Excerptum de Talmud*, pp. 16-22.

<sup>71</sup> The Talmud vindicates its revealed nature in several passages, such as Gittin 60b, Berakoth 5a, Menahoth 29b, and Megillah 19b. Vid. [ANONYMOUS], *Talmud Bavli*.

<sup>72</sup> The description of the Talmud made by Innocent IV in a letter to the king of France (1244) provides evidence of the concerns of the Church: “*In hujusmodi namque traditionibus que Talmud Hebraice nuncupantur, et magnus liber est apud eos, excedens textum Biblie in immensum, in quo sunt blasphemie in Deum et Christum eius, ac Beatam Virginem manifeste intricabiles fabule, abusiones erronee, ac stultitie inaudite, filios suos docent ac nutriunt, et a legis, et prophetarum doctrina reddunt ipsos penitus alienos. Verentes ne veritate, que in eisdem lege ac prophetis est, intellecta, aperte de unigenito Dei Filio venturo in carnem testimonium perhibente, convertantur ad fidem, et ad Redemptorem suum humiliter revertantur.*” In GRAYZEL, *The Church and the Jews in the XIIIth Century (Vol. 1)*, doc. 104 and SIMONSOHN, *The Apostolic See and the Jews*, doc. 171.

<sup>73</sup> On the perception of Rabbinic Judaism after the first Christian contacts with the Talmud, see COHEN, Jeremy, “The Jews as the Killers of Christ in the Latin Tradition, from Augustine to the Friars”. See also his posterior work, COHEN, “Scholarship and Intolerance in the Medieval Academy: The Study and Evaluation of Judaism in European Christendom”.

Donin himself and the authoritative rabbi Yehiel of Paris. Donin had long experience disputing against the Talmud even before joining Christianity due to his Karaite sympathies<sup>74</sup>. The higher French religious authorities carefully prepared the event with the active cooperation of King (Saint) Louis IX, who shared the papal concerns on the Talmud<sup>75</sup>, and the professorship of the University of Paris<sup>76</sup>.

The Christian purported victory resulted in the condemnation of the Talmud, enervated anti-Jewish fervour, and led to a public burning of several copies—24 wagons according to Rosenthal and Grayzel<sup>77</sup>—of the Talmud in Paris in 1242<sup>78</sup>. Soon after these first outbreaks, several Jewish communities in France begged Innocent IV to reconsider the conclusions of the first judgement against the Talmud. The Pope agreed to stop the campaign of confiscations and to return the copies already in the hands of the ecclesiastical authorities to the Jews. He commissioned the recently appointed cardinal Odo of Châteauroux to reexamine in depth the blasphemies of the Talmud and to prepare a Latin translation of the most representative passages in this regard<sup>79</sup>. Cardinal Odo succeeded in both tasks. Between 1244 and 1245, he supervised the preparation of a Latin anthology of 1,922 passages of the Talmud, known as the *Extractiones de Talmud*<sup>80</sup>. Later, in 1248, he issued the verdict of his inquiries, concluding that the Talmud was replete of ‘*errores insuperabiles, blasphemias et Nepharia continere*’ and should not be tolerated<sup>81</sup>. The Pope availed Odo’s sentence, though only Louis IX strictly complied with it<sup>82</sup>.

The Parisian process against the Talmud was the first large-scale inquisitorial action against Judaism. Admittedly, it might be argued, as Yom Tov Assis did, that the first significant inquisitorial intervention in Jewish affairs occurred when Cardinal Romanus ordered the burning of Maimonides’ works in Provence in 1232<sup>83</sup>. However, the causes and antecedents that preceded this episode are obscure enough to make it impossible

<sup>74</sup> MACCOBY, *Judaism on Trial*, pp. 19-20.

<sup>75</sup> JORDAN, *The French Monarchy and the Jews*, p. 137. Louis’ justification of the violent reaction of the attendees to a smaller disputation held at Cluny against the Jewish speaker evinces the extent of his commitment. See, CHAZAN, *The Jews of Medieval Western Christendom*, p. 149.

<sup>76</sup> On the role of Parisian scholars in the dispute, see SCHWARTZ, “Authority, Control, and Conflict in Thirteenth-Century Paris: Contextualizing the Talmud Trial”.

<sup>77</sup> ROSENTHAL, “The Talmud on Trial: The Disputation at Paris in the Year 1240”, p. 72. GRAYZEL, “The Talmud and the Medieval Papacy”, p. 226.

<sup>78</sup> Although the exact year of the burning has been questioned, André Toulrier gave solid reasons to assure that it occurred in 1242, beginnings of 1243 at the latest. TULLIER, “La condamnation du Talmud par les maîtres universitaires parisiens, ses causes et ses conséquences politiques et idéologiques”, pp. 64-65. Indeed, the confiscation of the Talmud had been commanded several times before the Disputation. See GRAYZEL, *The Church and the Jews (Vol. 1)*, docs. 95-98 and SIMONSOHN, *The Apostolic See and the Jews*, docs. 162-165.

<sup>79</sup> GRAYZEL, *The Church and the Jews (Vol. 1)*, doc. 119 and in SIMONSOHN, *The Apostolic See and the Jews*, doc. 187.

<sup>80</sup> For a critical edition of the *Extractiones*, see CECINI, ULISSA and DE LA CRUZ PALMA, *Extractiones de Talmud per ordinem sequentialem*.

<sup>81</sup> DENIFLE and CHATELAIN, *Chartularium Universitatis Parisiensis, Pars Prima*, doc. 178.

<sup>82</sup> COHEN, *The Friars and the Jews*, p. 73.

<sup>83</sup> ASSIS, *The Golden Age of Aragonese Jewry*, p. 58.

to know whether the Church acted autonomously or with the active cooperation of the anti-Maimonidean Jewish party<sup>84</sup>. It is even difficult to ensure whether Cardinal Romanus resorted to the inquisitorial jurisdiction or whether the burning was the result of a personal initiative. At any rate, the engagement of the Church in the Maimonidean controversy had a very local impact, far from the European scope that the aftermath of the Disputation of Paris reached.

The condemnation of the Talmud caused the Church to rethink the notion of tolerance. The existence of the Talmud relativised the premise that Jews, though having denied Christ, kept themselves loyal to the Old Law revealed at the Sinai. Mere ignorance could not justify such blasphemies, but there had to be a certain evil willingness in Jewish disbelief. All across Christian Europe, more and more voices started to accuse Jews of being heretics, and new ways for the intervention of the inquisition were opened<sup>85</sup>.

Despite the pressure that Gregory IX and Innocent IV exerted on Rabbinic Judaism, inquisitors seemingly kept the focus of their activities on the prosecution of heresy. In fact, the early production of manuals for inquisitors was unanimously silent about the Talmud and the Jews. A telling example is the first guidebook ever circulated. It was prepared in 1242, probably on the occasion of the council held in Tarragona, by Ramon of Penyafort and the archbishop of Tarragona<sup>86</sup>. The manual assisted inquisitors in identifying heretics and their collaborators, managing the interrogatories, triggering action against them, and imposing penalties. The authors focused on the Waldensians (*'Insabbatati'*), or *Poor of Lyon*, though the manual aimed to guide the repression of any heresy<sup>87</sup>. In contrast, no allusion was made to the Talmud or the Jews. Indeed, the whole inquisitorial process, as depicted in the manual, was oriented against deviated Christians.

Between 1244 and 1248, Bernard of Caux and Jean of Saint Pierre elaborated a second handbook for inquisitors, two Dominicans who had gained experience combating heresy in the Midi<sup>88</sup>. Their manual, known as the *Ordo processus Narbonensis*, was intended to be a practical and didactic tool for guiding inquisitors. The authors provided advice for handling all the procedural steps, including the form to summon suspects, methods

<sup>84</sup> GRAYZEL, "The Talmud and the Medieval Papacy", p. 223; CAPUTO, *Nahmanides in Medieval Catalonia*, p. 23. See also COHEN, *The Friars and the Jews*, pp. 52-60.

<sup>85</sup> See the works by Alexander FIDORA, "The Influence of the *Extractiones de Talmud* on Anti-Jewish Sermons from the Thirteenth and Early Fourteenth Centuries" and "The Latin Talmud and the Extension of Papal Jurisdiction over Jews".

<sup>86</sup> S. RAIMUNDO DE PENYAFORT, "Diplomatario", doc. LXIV. The text has nearly twenty printed editions from the fifteenth century to the present. See, the bibliography to the edition GRAU TORRAS *et al.*, "El directori inquisitorial de Pere d'Albalat i Ramon de Penyafort: estudi, edició i tradició".

<sup>87</sup> "Et videtur quod haeretici sint qui in suo errore perdurant, sicut sunt *Insabbatati*, qui dicunt in aliquo casu non esse iurandum, et potestatibus ecclesiasticis vel secularibus non esse obediendum, et poenam corporalem non esse infligendam in aliquo [casu], et similia." *Ibidem*. The authors repeatedly set a distinction between Waldensians and other heretics through expressions such as "*haeretici vel Insabbatati* [sic]". S. RAIMUNDO DE PENYAFORT, "Diplomatario", doc. LXIV, pp. 74-75.

<sup>88</sup> TARDIF, "Document pour l'histoire du Processus per inquisitionem et de l'Inquisitio heretice pravitatis"; also in SELGE, *Texte zur Inquisition*, pp. 70-76.

of interrogation, and the style of the sentences. The pedagogical goals of this work are more evident than in Penyafor's guidelines, which turns it into the first manual in a strict sense.

Two conclusions can be inferred from this lack of reference to the recent anti-Talmudic campaigns. First, notwithstanding its impact, the encounter with the Talmud did not erase the conceptual boundaries between Judaism and heresy in an early stage. Second, heresy was still perceived as the most urgent threat, which was worthy of cornering the efforts of the inquisitors.

The apparent position of the Talmud as a secondary concern was reflected in the next papal attempt to increase the efficacy of the inquisition. The new movement was embodied in the bull *Ad extirpanda*, issued by Innocent IV in 1252<sup>89</sup>. The legal ambition of the decree becomes manifest in its relatively long extension, which encompasses 32 measures or *leges*. The bull pursued three main objectives: enhancing cooperation between religious and secular authorities, reformulating the inquisitorial structures designed at the Council of Toulouse, and clarifying some aspects of the inquisitorial procedure. As in *Vergentis*, the Pope warned reckless and passive lords that non-complying with the bull would entail the loss of their rights as suzerains<sup>90</sup>.

Secular lords were commanded to appoint at least twelve faultless Catholic men ('*Viros probos, et catholicos*'), two notaries, two assistants ('*servitores*'), and two Franciscans—turning them also into inquisitors—and two Dominicans previously nominated by their priors<sup>91</sup> to seize heretics and bring them to justice<sup>92</sup>. The new scheme was an adaptation of the model arranged at Toulouse, which had become obsolete after the transfer of inquisitorial leadership from the bishops to the friars. None of these measures mentioned the Jews.

The effect of the Disputation of Paris in Canon Law treatises was not immediate, though legal theoreticians started to show some interest in these matters. Henry of Segusio, also known as Hostiensis, for example, included a discussion on Jewish blasphemies in his commentary on Book V of the *Decretals* (finished c. 1260). Hostiensis followed the same line of interpretation as Penyafor. He advocated the involvement of both jurisdictions, with a religious trial acting first to discern the facts and impose an indirect spiritual penalty and the involvement of the secular arm to inflict an earthly punishment<sup>93</sup>. Hostiensis paid more thorough attention to Jewish blasphemies than Penyafor

<sup>89</sup> [INNOCENTIUS IV], "Ad extirpanda".

<sup>90</sup> INNOCENTIUS IV], "Ad extirpanda", *op. cit.*, in *Lex* 1: "*Statuimus, ut Potestas, seu Rector, qui Civitati praest, vel loco alii ad praesens, aut pro tempore praefuerit in futurum (...) juret praecise, et sine timore aliquo, attendere inviolabiliter, et servare, et facere ab omnibus observari (...) quam in Terris suae ditio- ni subjectis, omnes, et singulas tam infrascriptas, quam alias Constitutiones, et Leges, tam canonicas, quam civiles, editas contra haereticam pravitatem. (...) Quae qui praestare noluerint, pro Potestatibus, vel Rectoribus nullatenus habeantur.*"

<sup>91</sup> INNOCENTIUS IV], "Ad extirpanda", *op. cit.*, *Lex* 3.

<sup>92</sup> INNOCENTIUS IV], "Ad extirpanda", *op. cit.*, *Lex* 4.

<sup>93</sup> "*Cum autem Iudaeus Christianum blasphemant, vel in eum seviens puniatur, multo fortius si Deum blasphemaverit est per potestatem secularem poena legitima feriendus: nec enim debemus dissimulare eius*

did forty years before. Nevertheless, his approach was rather superficial and unrelated to the Talmud. Hostiensis was probably influenced by Odo's sentence and the echoes of the Paris process. Still, he did not consider Jewish books as a specific source of blasphemies worthy of a separate analysis.

The inquisitorial interest in the Talmud consolidated after the impulse of the Disputation of Barcelona in 1263. The debate between Pau Cristià and Moses ben Naḥmanides inflamed again the zeal of the friars against Jewish blasphemies and the books in which they were found. As occurred in Paris twenty years before, the debate triggered a new campaign against the Talmud and revived the quest for conversion. Ramon of Penyafort took the lead in the first stage of the ecclesiastical reaction. Together with other renowned Dominicans, such as Pau Cristià and the polemicist Ramon Martí, he formed a commission in charge of requisitioning the copies of the Talmud in the Crown of Aragon, analysing its blasphemies, censoring them and, in case of need, destroying all the available manuscripts. The Dominicans also asked for the prosecution of Naḥmanides for his participation in the debate and the circulation of his written report. James I initially consented to all their demands and gave them legal support. The commission was authorised to proceed against the Talmud, and the Dominicans were allowed to preach in the synagogues<sup>94</sup>. A few days later, in an action that Robert Chazan defined as a '*significant and fascinating shift in royal stance*'<sup>95</sup>, James I communicated that the Jews could not be forced to attend the sermons in their synagogues<sup>96</sup>. Regarding Naḥmanides, the king held an inflexible position against his arrest and judgement from the outset, for he had granted the Jewish sage permission to speak freely, and the bishop of Girona had ordered the written account<sup>97</sup>. However, the pressures of the Church made Naḥmanides flee for Palestine in 1267<sup>98</sup>.

A new papal lunge soon followed the first response of the friars. Clement IV shared the eagerness of the Dominicans in their endeavour to eradicate the blasphemies of the rabbis, whose perfidy and evilness were now undeniable. The position of the Pope was quite evident in the letter he sent to King James I asking for an exemplary punishment for the Naḥmanides<sup>99</sup>. The later bull *Damnabili perfidia Iudeorum*, expressly addressed

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*opprobria qui probra nostra delevit: ut infra eodem in nonnullis. (...) quandoque per poenam spiritua-lem indirecte, quia excommunicantur fideles eis participantes.*" HENRICI CARDINALIS HOSTIENSIS, *Summa Aurea*, p. 395v.

<sup>94</sup> For the related documents, see TOSTADO MARTÍN, *La disputa de Barcelona*, pp. 487-490. For an English translation, see MACCOBY, *Judaism on Trial*, p. 133.

<sup>95</sup> CHAZAN, *Barcelona and Beyond*, p. 85. As he notes earlier in this chapter, James I's decree authorising extraordinary sermons emulated some prior measures he had adopted.

<sup>96</sup> Arxiu de la Corona d'Aragó [ACA], reg. 12, f. 111v. Cfr. TOSTADO MARTÍN, *La disputa de Barcelona*, p. 491. In the subsequent years, James I intervened in several processes to moderate the decisions of Dominican inquisitors. See ASSIS, *The Golden Age of Aragonese Jewry*, pp. 50-51.

<sup>97</sup> ACA, reg. 13, f. 265r. Cfr. TOSTADO MARTÍN, *La disputa de Barcelona*, p. 493.

<sup>98</sup> NAḤMANIDE, *La dispute de Barcelone suivi du Commentaire sur Esaïe*, p. 9.

<sup>99</sup> "*Cuius [Naḥmanides] ausum temerarium sic debite censura iustitie absque tamem mortis periculo et membrorum mutilatione*". Archivum Apostolicum Vaticanum, Nr. 29 A ep. 18. Cfr. TOSTADO MARTÍN, *La disputa de Barcelona*, pp. 497-499.

to the Catalan-Aragonese monarch, was written in similar terms<sup>100</sup>. The anti-Talmudic enthusiasm first manifested in *Damnabili perfidia Iudeorum* crystallised in the general-scope bull *Turbato corde*, issued in 1267. The new papal enactment reached an unprecedented level of rhetorical aggressivity. Assuming the argumentative trends that had flourished among Christian polemicists since the Disputation of Paris, Clement attempted to establish a legal correspondence between the crimes committed by Jews against the Church and heresy:

*“Turbato corde audivimus et narramus quod quamplurimi reprobi Christiani veritatem Catholicae fidei abnegantes se ad ritum Judaicum damnabiliter transtulerunt; quod tanto magis reprobum fore dignoscitur, quanto ex hoc nomen Christi sanctissimum quadam familiari hostilitate securius blasphematur. Cum autem huic pesti damnabili, quae, sicut accepimus, non sine subversione predictae fidei nimis excrescit, congruis et festinis deceat remediis obviari: universitati vestre per apostolica scripta mandamus, quatenus infra terminos vobis ad inquirendum contra haereticos auctoritate sedis apostolice designatos super premissis tam per Christianos, quam etiam per Judeos inquisita diligenter et solícite veritate, contra Christianos, quos talia invenieritis commisisse tamquam contra hereticos procedatis: Judeos autem, qui Christianos utriusque sexus ad eorum ritum execrabile hactenus induxerunt; aut inveneritis de cetero inducentes pena debita puniatis; contradictores per censuram ecclesiasticam, appellatione postposita, compescendo, invocato ad hoc, si opus fuerit, auxilio brachii secularis”*<sup>101</sup>.

According to Grayzel’s reading of the *Turbato corde*, Pope Clement IV established five cases that were under direct ecclesiastical jurisdiction: relapsed converts, their accomplices, Judaised Christians, Jewish proselytes, and blasphemers<sup>102</sup>. Persecuting false converts and their inductors had been one of the traditional ambits in which ecclesiastical jurisdiction contended to have legitimacy. The official position held by the Church, as noted above, was that any convert, even if he had been forced to take baptism by force, returning to his old faith was an apostate. In this context, those who supported or convinced them also participated in the sacrilege. They were direct offences against the Church and the sacraments.

The bull was motivated by the experiences of the Dispute of Barcelona rather than by an objective concern about the increasing number of relapsed converts<sup>103</sup>. The list of

<sup>100</sup> GRAYZEL, *The Church and the Jews in the XIIIth Century (Volume II)*, doc. 25 and SIMONSOHN, *The Apostolic See and the Jews*, doc. 229.

<sup>101</sup> GRAYZEL, *The Church and the Jews (Volume II)*, doc. 26. The bull was reissued four times between 1274 and 1290 (see docs. 33, 44, 56 and 61). In SIMONSOHN, *The Apostolic See and the Jews*, docs. 230, 236, 247, 260, and 266.

<sup>102</sup> GRAYZEL, *The Church and the Jews (Volume II)*, p. 16.

<sup>103</sup> VOSE, *Dominicans, Muslims and Jews in the Medieval Crown of Aragon*, pp. 180-181.

crimes in the *Turbato corde* did not add new scenarios to the catalogue of prerogatives of the inquisition. Clement IV did not aim to modify the political line of the Church, but to clarify the jurisdictional operational area of the friars and to emphasise their duties in this regard. The importance of the *Turbato corde* did not lie in the offences listed, but in the terminology. The Pope commanded that Jewish blasphemers had to be deemed heretics and processed as such. Following the doctrinal line enforced by Innocent III in *Vergentis in senium*, the theoretical legal consequence of this declaration was that the holders of the Talmud, as well as its preachers and adepts, were to be regarded as criminals of *lèse-majesté*, traitors to the spiritual and earthly powers. They could be militarily fought and physically eradicated. Brought to its last consequences, the systematic persecution of the Talmud and its holders and adepts would have been a hard blow—perhaps even an irreversible one—for European Jewry.

It soon became evident that the Papal enthusiasm lacked theological, legal, and political support. The conflict between the rhetoric of the *Turbato corde* and legal practice was unsurmountable. Indeed, the anti-Jewish fervour that had risen since the disputations of Paris and Barcelona posed a deeper conflict for Catholic thinkers. The alleged blasphemies of the Talmud tensed the Augustinian doctrine. Moreover, they had developed a broad and deep intellectual production based on allegedly revealed sources long unknown to Christian authorities. Legal authors and theologians asked themselves to what extent the Augustinian theses covered the Talmud and the new perceptions of Judaism.

Medieval authors endured a certain degree of hermeneutical distress when attempting to move through this problematic theoretical equilibrium. In several works, Robert Chazan has referred to the defence of the Augustinian theses in Alexander of Hales' *Summa Aurea* to exemplify the ambiguous position of the late-medieval Church in this regard<sup>104</sup>. Admittedly, Alexander's views are a good example of this inner conflict. His discourse follows the typical dialectal structure of medieval treatises. He poses a question—whether Jews should be tolerated or not—and then offers several affirmative and negative arguments before presenting his conclusions<sup>105</sup>.

Against tolerance, he presented three arguments. First, Jews were blasphemers. According to biblical laws, especially those of the Old Testament, blasphemers had to be put to death<sup>106</sup>. Second, Jews accepted the laws and doctrines of the Talmud, a book full of blasphemies against Christ and the Virgin<sup>107</sup>. Third, if the Church promoted killing the

<sup>104</sup> CHAZAN, *Church, State and Jew in the Middle Ages*, pp. 43-46, and CHAZAN, *The Jews of Medieval Christendom*, p. 45.

<sup>105</sup> ALEXANDER OF HALES, *Doctoris irrefragabilis Alexandri de Hales Ordinis minorum Summa Theologica*, III, In. 3, Tr. 8, S. 1, Q. 1, T. 2, M. 1, C. 1 (n. 740).

<sup>106</sup> "1. *Blasphemant enim et contra Christum et contra Virginem, persequuntur etiam fidem catholicam, sacramentis etiam ecclesiasticis faciunt iniuriam (...) Blasphemi autem secundum Legem etiam Veterem erant morti tradendi; ergo et Iudaei non sunt tolerandi, sed morti exponendi, maxime qui sic se habent?*" *Ibidem*.

<sup>107</sup> "2. *Praeterea, in libri eorum, qui dicitur Talmud, plura continebantur, quae ad blasphemiam Christi et Virginis pertinebant; cum ergo doctrinam illius libri quasi legem observent, simul cum libris huiusmodi sunt disperdendi.*" *Ibidem*.

infidels who held the Holy Land, the same should be done with those who insulted the Messiah, which was a greater sin<sup>108</sup>.

The reasons he invoked to contest these hypothetical arguments were all extracted from the catholic exegetical tradition. Alexander of Hales alludes to Psalm 59.12<sup>109</sup>, the Augustinian thesis<sup>110</sup>, Isaiah 10.22<sup>111</sup>, and Romans 11.5<sup>112</sup> as immovable sources arguing for tolerance.

Although Alexander of Hales resolved in favour of the prevalence of the Augustinian thesis, the reasons against the traditional doctrine he alluded to are pretty revealing. It is highly improbable that he devised these arguments from nowhere, as a product of his sole imagination. They were presumably actual points of informal debates that might have had adepts among the clergy. As noted by Ryan Szpiech in his book *Conversion and Narrative*, medieval arguments draw their legitimacy from two primary sources. On the one hand, the authority of the author who first formulated them (*auctoritas*). On the other hand, their rationality (*ratio*), especially when no former authority, could be appealed to in order to sustain them. In a conflict between reason and authority, the latter was preferred<sup>113</sup>. Alexander of Hales might have envisaged this discussion as a conflict between *ratio* and *auctoritas*. The arguments against tolerance were *logical*, but the *authority* of Saint Augustine prevailed over reason.

Alexander of Hales evinces the liminal position of the Church at the crossroads between the tradition of tolerance and the logic of fighting the enemy<sup>114</sup>. The literal implementation of the *Turbato corde* would have implied the eradication of European Jewry. Nevertheless, Clement was bound to the Augustinian tradition<sup>115</sup>. Consequently, it might be assumed that there was a dissociation of the rhetorical and legal aspects of the *Turbato corde* concerning Jewish blasphemies. Clement died in 1268—barely a year after issuing the bull—, which makes it impossible to know how he would have continued his Jewish policy. Nevertheless, the correspondence of his successors encouraging kings

<sup>108</sup> “3. *Item, Christiani persequuntur paganos usque ad mortem, qui sunt detentores Terrae Sanctae; sed amplior iniuria est contumelia Redemptoris; ergo perpetrantes huiusmodi contumeliam persequi debent Christiani usque ad mortem; non ergo sunt tolerandi.*” *Ibidem*.

<sup>109</sup> “a. *per hoc quod dicitur in Psalmo, super illud: Ne occidas eos, Glossa: «Hoc de Iudaeis specialiter potest accipi; precatu, ne Iudaei funditus pereant: dispersi quidem sunt, ut ad conversionem provocentur; orat etiam pro eis, dicens: Ne occidas eos, qui me occiderunt, sed maneat gens Iudaeorum cum signa circumcisionis». Ergo tolerandi sunt.*” *Ibidem*.

<sup>110</sup> “b. *Item, fortius est testimonium quod ab adversariis accipitur; sed Ecclesia catholica sumit testimonium a Veteri Lege, quam observant Iudaei; ad hoc ergo quod Ecclesia catholica ab inimicis habeat testimonium, tolerandi sunt Iudaei: a Lege enim Veteri, scilicet a Lege Moysi et Prophetis, accipitur testimonium de Christo, quod negare non possunt.*” *Ibidem*.

<sup>111</sup> In the *Vulgata*: “*Si enim fuerit populus tuus, Israël, quasi arena maris, reliquiae convertentur ex eo; consummatio abbreviata inundabit iustitiam.*”

<sup>112</sup> In the *Vulgata*: “*Si enim amissio eorum, reconciliatio est mundi: quae assumptio, nisi vita ex mortuis?*”.

<sup>113</sup> SZPIECH, Ryan (2013). *Conversion and Narrative*, pp. 65ff.

<sup>114</sup> Besides the interpretation of Robert Chazan on these passages of the *Summa halensis*, see the discussion in FIDORA, “*The Talmud in the Summa Halensis*”, pp. 174-179.

<sup>115</sup> CHAZAN, *Daggers of Faith*, pp. 160ff; COHEN, *Living Letters of the Law*, pp. 359ff.



and lords to cooperate in the fight against the Talmudic falsities was more cautious in their anti-heretical rhetoric<sup>116</sup>.

The rhetoric was less problematic concerning the prosecution of apostates and proselytes. As noted, reluctant converts were considered Christians by the Church, whether they took baptism willingly or by force. Thus, they were to be treated as Christians. That is to say, false converts were traitors to the faith and heretics, whereas proselytes were to be considered accomplices of heresy. Clement's successors frequently resorted to this assimilation in their periodical letters to kings and princes asking for cooperation. Thirty years later, Boniface VIII summarised this principle in the *Liber Sextus*:

*“Contra Christianos, qui ad ritum transierint vel redierint Iudaeorum, etiamsi huiusmodi redeuntes, dum erant infantes, aut mortis metu, non tamen absolute aut praecise coacti, baptizati fuerunt, erit tamquam contra haeticos, si fuerint de hoc confessi, aut per Christianos seu Iudaeos convicti, et, sicut contra fautores, receptoros et defensores haeticorum, sic contra fautores, receptoros et defensores talium est procedendum”*.<sup>117</sup>

Curiously, the vehemency of the *Turbato corde* did not have a significant impact on the production of inquisitorial manuals in the following decades, whose focus remained on Christian heresies. The authorless treatise *Doctrina de modo procedendi contra haeticos*, written ca. 1278, provided guidance on identifying heretics and their crimes, the steps of the inquiries and the judgement, the contents of judicial decisions, the penalties, and other aspects of the procedure. However, the work was exclusively addressed against ‘*Carcassonesibus & Tholosanis*’ (Cathars) and made no mention of Jews or other heretics<sup>118</sup>. The same orientation is found in a treatise erroneously attributed to the German Franciscan David of Augsburg (d. 1272) for a long time<sup>119</sup>. The anonymous author presented a tripartite structure intending to educate inquisitors on the main heretical sects, the rudiments of the inquisitorial procedure, and the punishment of heretics and their collaborators. Despite his promise of a comprehensive analysis of the dissident cults, he devoted his manual almost exclusively to the Waldensians (‘*Pauperes de Lugduno*’) with a small section on the worshipers of Lucifer and some nominal references to Ortliebers (‘*Ortidiebari*’), Arnaldists (‘*Arnostuste*’), and Bogomils (‘*Runcharii*’)<sup>120</sup>.

<sup>116</sup> For example, in a letter sent to the Archbishop of Canterbury in 1286, Honorius IV branded the Talmud as a “*maligna fraude*” work full of “*abominationes, falsitates, infidelitates et abusiones multimodas*”, but did not accuse it of heresy. SIMONSOHN, *The Apostolic See and the Jews*, doc. 255.

<sup>117</sup> [BONIFACIUS], *Liber sextus decretalium Domini Bonifacii Papae VIII*, Lib. V, Tit. II, c. 13.

<sup>118</sup> [ANONYMOUS], “*Doctrina de modo procedendi contra haeticos*”.

<sup>119</sup> The manual has been edited in PREGER, “*Der Tractat des David von Augsburg über die Waldesier*”. Bernard Gui incorporated parts of the text in his manual, which will be discussed below. See., HILL, pp. 43-44.

<sup>120</sup> He adds the ‘*Waltenses*’ to the list. Preger interprets that this apparent reiteration was to distinguish the French Waldensians or Poor of Lyon from the Italic Waldensians (‘*italischen Armen*’).

The dissociation between rhetoric and legal response is blatant in the manual known as *Passauer Anonymus*, written at some point in the 1260s<sup>121</sup>. The work was composed of three semi-independent treatises. The first one was a classical anti-heretical manual structured according to the canons of the genre. The author began by reviewing the main traits of the most eminent heresies of the period, with particular emphasis on Bogomils ('*Runcariis*'), Ortliebers, Cathars, and Waldensians (who are also named '*Pauperes de Lugduno*' or '*Leonistis*'). After introducing the legal subjects, he presented his guidelines for dealing with criminal procedures, from the first interrogations to the final sentence. The second section was a speculative treatise on the Antichrist. The last one was an anti-Jewish treatise in which the author denounced and refuted the errors of the Jews and the Talmud.

The differences in the style and objectives of the first and third treatises of the *Passauer* are evident. The anti-heretical manual did not offer guidance on prosecuting false converts and the Talmud. The author stuck to the traditional legal definition of heretic as a Christian schismatic and seemed unaware of the alleged doctrinal changes brought after the two great disputations and the papal response. In contrast, the third section was a typical thirteenth-century apologetical work. The author discussed the Jewish blasphemies ('*blasphemia Iudeorum contra Ecclesiam*') with vehemency, their crimes, and the heresies of the Talmud. However, he did not connect both treatises. The Jews were apparently not included among the regular heretics, and the aggressive rhetoric of his polemical discussion—including the accusations of heresy—was untied to legal consequences. There was a breach separating the *legal* heretic from the *theoretical* heretic.

#### 4. Reaching maturity: Consolidating the Inquisitorial Power over the Jews in the Fourteenth Century

Posterior papal enactments related to the inquisition lowered the anti-Talmudic enthusiasm of Clement IV. No direct references to the Talmud or linking Judaism with heresy were found in the subsequent bulls. This does not mean that the inquisitorial interest in false converts, Jewish proselytes and the blasphemies of the Talmud was left behind. The actions of the Holy See and the inquisitors give broad evidence of their increasing and militant commitment against Judaism<sup>122</sup>. Changes were terminological, not conceptual, although Christian heretics seemingly remained the essential target of the inquisition and the actual threat to the Catholic community.

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<sup>121</sup> No integral edition of the text has been published. See the monographic analysis in PATSCHOVSKY, *Der Passauer Anonymus*. A critical edition of the anti-Jewish treatise is currently being prepared by Professor Isaac LAMPURLANÉS (ÖAW). There is also a derived and shorter treatise, commonly known as the *Pseudo-Reinerius*, which kept most of the guidelines of the *Passauer* to identify and punish heretics. Apparently, it was composed in the mid-1270s. For a recension and partial edition, see NICKSON, "The <<Pseudo-Reinerius>> Treatise, the Final Stage of a Thirteenth Century Work on Heresy from the Diocese of Passau".

<sup>122</sup> See for example the documents collected in SIMONSOHN, *The Apostolic See and the Jews*, dating from 1267 to 1312, specifically docs. 241, 243, 244, 245, 248, 249, 255, 258, 263, 264, and 278.

The bulls *Multorum quarela* and *Nolentes*, both approved by Clement V at the Council of Vienne (1311-1312), bear witness to this trend<sup>123</sup>. It has been argued that the enactments adopted at Vienne closed the positive development of the medieval inquisition and introduced it into a new maturity phase<sup>124</sup>. *Multorum quaerela* noted the importance of coordination between inquisitors and bishops in fighting heresy. The bull obliged inquisitors to inform and agree with the bishops on many aspects of the procedure, such as the use of torture, the release of heretics to the secular arm, and the management of prisons<sup>125</sup>. *Nolentes* forbade extrajudicial agreements between religious authorities and heretics. The Pope emphasised the illegitimacy of excommunications that could be reverted in exchange for money. Both bulls exclusively referred to the ‘*haeretica pravitas*’ and did not allude to Judaism. The papal doctrine developed since the mid-thirteenth century, and the increasing involvement of inquisitors in Jewish affairs advise a more comprehensive interpretation of the concept of *heretic* here. Jewish blasphemies, apostates and proselytes—as well as their accomplices—were certainly included within this generic category. However, the lack of explicit references indicates that the original enthusiasm of Innocent IV, Gregory IX, Clement IV and other thirteenth-century popes had diminished.

The apparent—just apparent—moderation of the Church’s interest in the Talmud and other Jewish blasphemies of the last decades was, in fact, a brief parenthesis. The explicit engagement of the religious authorities in the anti-Talmudic struggle underwent a revival from 1320 onwards. Pope John XXII recovered the political line of Clement IV through the bull *Dudum felicitis recordationis* (1320). In this new pronouncement, John XXII conveyed his concerns about the spreading of Jewish blasphemies. He confessed his uneasiness in front of the possibility that their lies and falsities could ultimately tempt the faithful. The Pope recalled, among other sources, the sentence that Odo of Châteauroux issued against the Talmud in 1248:

“*Dudum felicitis recordationis Clemens IV, blasphemiiis Judaeorum innumeris, abusionibus multis et detestabilibus blasphemiiis contra Salvatorem et Dominum Jesum Christum, ac praecelsam et gloriosissimam semper virginem Mariam genitricem ejus, in quodam libro contentis ipsorum, plenius intellectis; (...) et insuper bonae memoriae Oddo Tusculanus episcopus in regno Franciae Apostolicae Sedis legatus, quia quosdam Judaeorum ipsorum libros, qui Talmutz nominantur, per se et alios fidei zelatores inspectos reperit errores innumerabiles, abusiones et blasphemias continere, contra Judaeos*

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<sup>123</sup> For they both: [CLEMENS V], “Clementinarum”, Lib. V, Tit. III, Cap. I and II.

<sup>124</sup> HILL, *Inquisition in the Fourteenth Century*, p. 14.

<sup>125</sup> This bull was probably a result of the jurisdictional conflicts between inquisitors and bishops that had been recurrent since the promulgation of *Ille humani generis*. GRAYZEL, *The Church and the Jews in the XIIIth century* (Vol. 2), pp. 17-18; DEDIEU, *L’inquisition*, p. 21.

*pronuntiasset dignoscitur supradictos, prout in eisdem litteris ac pronuntiatione, quarum tenores fecimus annotari praesentibus, continetur.*<sup>126</sup>

John XXII called for a decided response. Jewish ideas were an illness that had to be cut off. As the foremost protector of orthodoxy, he felt bound to combat this threat. He assumed this mission by commanding the friars and all the faithful to preach energetically against Jewish falsities. Those Christians whom the infidels had already tempted had to be redeemed with a suitable spiritual punishment. Moreover, Dominicans and Franciscans, with the aid of the secular arm, had the duty to seek and destroy the Talmud and any other blasphemous work produced by the Jews:

*“Nos igitur, ad quos specialiter pertinet fidei orthodoxae defensio, in debita considerationis scrutinio recensentes, quod tam pestilens tamque perniciosus morbus, qui adhuc in diversis perdurat partibus, non est aliquatenus contemnendus, ne processu temporis inficiendo fideles alias damnabilius convalescat; (...) fraternitati vestrae, dictorum praedecessorum inhaerendo vestigiis, in virtute obedientiae districtae praecipiendo mandamus, (...) in praedicationibus et sermonibus vestris, quos propter hoc frequenter fieri volumus et mandamus, monere curetis et eis districtius inhibere, ut a praemissis omnibus et singulis aliis in litteris eisdem contentis studeant penitus abstinere, eos ab iis per spirituales poenas, de quibus expedire videritis, appellatione postposita compescendo; (...) Et nihilominus a Judaeis, in civitatibus et dioecesibus consistentibus supradictis, legem seu libram hujusmodi, quem Talmutz, ut praedicitur, vocant, omnesque alios ipsorum libros cum additionibus et expositionibus eorumdem faciatis Vobis integraliter assignari, eos ad hoc poenis, de quibus expedire videritis, canonicis compellendo; (...) vel illos [libros] ex eisdem, quos blasphemias, vel errores, aut imprecationes, seu falsitates repereritis continere, igni comburatis, invocato ad hoc, si opus fuerit, auxilio brachii secularis...”*<sup>127</sup>

The bull was a synthesis of the papal anti-Talmudic doctrine as developed since the times of Gregory IX. John XXII did not modify anything nor add a new idea or concept. However, unlike former bulls, the *Dudum felicitis recordationis* directly influenced inquisitorial pedagogy. Some years later, probably in 1324, Bernard Gui circulated the first manual that provided specific training on how to deal with Jews, the *Practica inquisitionis heretice pravitatis*<sup>128</sup>. The lack of distinct procedures and protocols to investigate and judge non-Christians, including methods to detect their offences in the interrogatories and the availability of adapted formulae to make suspects take an

<sup>126</sup> CAESARIS BARONI, *Annales Ecclesiastici* (Vol. 24), pp. 128-129.

<sup>127</sup> CAESARIS BARONI, *Annales Ecclesiastici* (Vol. 24), pp. 128-129.

<sup>128</sup> GUIDONIS, *Practica inquisitionis heretice pravitatis*.

oath, had been a notorious void in the education of inquisitors from the Disputation of Paris onwards<sup>129</sup>. Gui's work, which belonged to a new generation of manuals, strived to instruct his fellows in every aspect of the inquisitorial office. Although it was exclusively elaborated for the inquisitors in the Languedocian dioceses<sup>130</sup>, its length and comprehensiveness exceeded those of its predecessors in the genre. Gui did not aim to render superficial advice on the identification and punishment of heretics, but an entire course to educate inquisitors in all facets of their profession.

His personal experience as a censor and prosecutor of the Talmud and other Jewish blasphemies was at the core of his arguments and examples. In discussing these matters, Gui took a distance from speculative polemics to present only the technical aspects of the procedures<sup>131</sup>. The first part of the manual, a compilation of samples of writs of summons, includes six letters he sent in 1309 in the context of two processes conducted in Toulouse and Agen. The first letter, which he addressed to the lay authorities of Toulouse and Rhodes, gathered the main elements of the anti-Talmudic tradition, such as the search for blasphemies, the involvement of the secular arm, the public burning of blasphemous texts, the punishment of the owners and their abettors. Like John XXII, Gui sought legitimation in Odo's sentence:

*“Frater Bernardus Guidonis, ord. Predic., inquisitor heretice pravitatis ac perfidie Judeorum in regno Francie (...) Cum pia voluntas (...) domini nostri regis Francie Philippi (...) dederit in mandatis quod omnes libros omniaque scripta Judeorum que penes vos habetis seu in locis vobis in hac parte subjectis poteritis invenire, nobis exhibeatis, ut ex eis possimus eligere ac etiam separare omnes libros vocatos Talmutz et alios quoscumque in quibus continentur errores pariter et horrores ac blasfemie in Dominum Jhesum Christum et ejus sanctissimam genitricem et ignominie nominis christiani, ad comburendum eosdem tamquam reprobos et dudum per sententiam domini Odonis cardinalis legati in Francia condemnatos; (...) committimus et mandamus, auctoritate apostolica ac etiam regia, quatinus per vos seu per fideles ac juratos vestros quos ad hoc duxeritis deputandos, faciatis perquiri dictos libros seu scripta Judeorum in locis vobis in hac parte subjectis, et ubicumque et apud quoscumque aliqui inventi fuerint capiatis seu capi faciatis eosdem nobis, ut premissum est, exhibendos; litteras quoque nostras alias generales excommunicationis*

<sup>129</sup> TARTAKOFF, *Between Christian and Jew*, p. 20; Parmeggiani, “La manualistica inquisitoriale (1230-1330): Alcuni percorsi di lettura”, pp. 7-16. Nevertheless, inquisitors had long been aware of these shortages. Some internal documents dating to the fourteenth century offered elementary advice on conducting the interrogatories of Jewish subjects. See, for instance, DEVIC and VAISSETE, *Histoire générale de Languedoc* (vol. 8), doc. CCXVI.

<sup>130</sup> HILL, *Inquisition in the Fourteenth Century*, op. cit., p. 33.

<sup>131</sup> As Yosef H. Yerushalmi observed, the didactical and practical aim of Gui is also evident in the lack of references to the *Turbato corde* and the rest of papal legislation concerning Talmudic blasphemies. YERUSHALMI, “The Inquisition and the Jews of France in the Time of Bernard Gui”, pp. 339-340. Yerushalmi's article starts with an account of Gui's inquisitorial activities in France between 1306 and 1322.

*sententiam continentes contra quoscumque detentores predictorum librorum et occultatores ac celatores eorum, necnon contra impeditores et rebelles publicari faciatis per rectores ecclesiarum locis et personis in quibuscumque partibus vobis vel deputatis per vos in hac parte visum fuerit expedire...*<sup>132</sup>

Following the same patterns, the third part of the treatise incorporated an example of a sentence against the blasphemies of the Talmud and other Jewish books. Gui linked the process to the recent bull by John XXII, commanding its burning. Although he stated that the sentence resulted from a thorough inquiry conducted by learned Hebraists and other experts, the elements and expressions of the final decision coincided with those of the quoted writ of summons. Once again, Gui expressly adhered to Odo's sentence. Despite its length, it is worthy to reproduce the text here:

*“Quoniam quamplurimum expediens et necessarium est puritati fidei orthodoxe ut non solum eradantur errores et hereses de cordibus errantium, verum etiam de codicibus quibuscumque, ut, quantum possibile fuerit, occasiones errandi in fide et blasphemandi nomen Domini nostri Jhesu Christi et vituperandi orthodoxe fidei sinceritatem penitus et radicitus evellantur, exhibitis dudum quamplurimis libris Judeorum qui Talmuti appellantur et quibusdam aliis quibus Judei non tantum utuntur quin potius abutuntur in opprobrium fidei christiane, inquisitori tali heretice pravitatis ac tali senescallo de mandato regis litteratorie eis facto prefati inquisitor et senescallus fecerunt omnes et singulos libros diligenter inspici et examinari per fideles viros ac fidei zelatores juratos peritosque in lingua ebrayca et expertos, et separari libros dampnate lectionis ab aliis libris ebraycis qui poterant tolerari. Et quoniam per fidele ac juratum testimonium et fide dignam assertionem predictorum examinerum inventum est quod quamplurimi libri Talmuti et etiam quidam alii in se continent in aliquibus suis partibus nonnullas blasphemias et ignominias contra Dominum Jhesum Christum et ejus sanctissimam genitricem beatam Mariam semper virginem, quamvis interdum in aliquibus locis sub palliatis vocabulis et velatis, et maledictiones execratas et imprecationes maledictas contra christianos et orthodoxe fidei professores, necnon falsitates et errores intolerabiles, que omnia singillatim referre pudendum esset et audire nichilominus abhorrendum, idcirco nos tales et tales inquisitores, attendentes condemnationis sententiam contra libros hujus dudum fuisse latam per reverendum in Christo patrem ac dominum felicis recordacionis dominum Odonem de Castro Radulphi sancte Romane Ecclesie Tusculanum episcopum cardinalem et apostolice sedis in Francia tunc legatum*

<sup>132</sup> GUIDONIS, *Practica inquisitionis heretice pravitatis*, pp. 67-68. The remaining five letters include a sample of mitigation of the excommunication imposed over officials who have neglected their duties in this regard, two excommunications on the owners and holders of the Talmud, and two requests to confiscate the Talmud (pp. 68-71).

*sub anno Domini MCCXLVIII, ac etiam statutum sancti Ludovici piissimi quondam regis Francorum quo expressim cavetur quod tam Talmites quam alii libri Judeorum in quibus inveniuntur blasfemie comburantur; necnon speciale mandatum sanctissimi patris ac domini nostri summi pontificis domini Johannis pape XXII directum et factum tali inquisitori ut omnes et singulos libros tales comburi faciat, habito nichilominus super hoc quamplurium bonorum virorum consilio et tractatu, omnes libros hic presentes examinatos, sicut premititur; et inventos fore appellari Talmutos, ac etiam quosdam alios aliis titulis designatos tanquam dampnatos, ut premititur; et nullatenus tolerandos, tradimus et relinquimus nobili viro domino tali senescallo hic presenti, requirentes eundem ut dictos libros recipiat, aut recipi faciat, receptosque integraliter comburi publice faciat indilate, volentes et requirentes notarios infra scriptos ut de predictis faciant publica instrumenta.*"<sup>133</sup>

In the fifth part of the treatise, devoted to the treatment of specific dissident and heretical groups, Gui incorporated some tuition on how to confront Jewish blasphemers, proselytes, and relapsed converts. His arguments did not add new ideas to the position assumed by the canonists since the times of Gratian. Relapsed converts were apostates and, therefore, heretics. In fact, Gui literally quoted Boniface VIII's decretal in the *Liber Sextus*<sup>134</sup>. His genuine contribution was methodological, not theoretical. He described and explained how to identify the strategies and secret codes supposedly used by Jewish proselytes and relapsed converts to arrange the apostasy. Likewise, he enumerated the most common blasphemies among Jews<sup>135</sup>. He also provided guidelines for 'interrogatoria specialia ad Judeos et rejudaysatos' to unmask false believers and samples of confessions and abjurations<sup>136</sup>.

Only a few years later (around 1330), the lay jurist Zanchino Ugolini circulated his work *De haereticis*<sup>137</sup>. The work was written at the request of a Franciscan friar, who was in need of a new, integral, and comprehensible manual to instruct inexpert inquisitors who might incur erroneous judgements<sup>138</sup>. Unlike the *Practica inquisitionis*, the *De haereticis* was highly descriptive and did not rely on practical cases. This manual evinces that the

<sup>133</sup> GUIDONIS, *Practica inquisitionis heretice pravitatis*, pp. 170-171.

<sup>134</sup> GUIDONIS, *Practica inquisitionis heretice pravitatis*, p. 288.

<sup>135</sup> GUIDONIS, *Practica inquisitionis heretice pravitatis*, 288-289.

<sup>136</sup> GUIDONIS, *Practica inquisitionis heretice pravitatis*, pp. 289-300.

<sup>137</sup> UGOLINI, D. Zanchini, *De haereticis*. An edition prepared in Venice in 1571 erroneously attributed the treatise to Giovanni Calderini, stepson and disciple of the outstanding canonist Giovanni d'Andrea. See, DONATI, *L'inquisizione romana*, p. 199. For the mistaken edition, see CALDERINI, Ioannis, *Tractatus novus de haereticis*.

<sup>138</sup> DIEHL, "An Inquisitor in Manual and in Print: The *Tractatus super materia haereticorum* of Zanchino Ugolini", p. 59.

inquisitorial process was no longer understood as an exceptional jurisdictional course, but as a normalised procedure within the ecclesiastical judicial capacities<sup>139</sup>.

Ugolini devoted chapter 36 to discussing the prosecution of non-Christians, particularly Jews. He acknowledged that the extension of religious jurisdiction over infidels posed a complex question, for they were not bound to the Christian dogmas and papal legislation. He admitted that the existence of such a power could be reasonably objected to. *‘De illo saepius dubitatur an Inquisitor possit procedere contra Iudaeos et eos punire’* is, indeed, the first sentence of the chapter. Ugolini started his disquisition by recalling that Jews could not be compelled to accept baptism since conversion had always to be willing. This remark traced a clear boundary between heresy and Judaism. Previously, in chapter 2, Ugolini had argued that Jews and other pagans were not to be considered heretics, for only deviated Christians fell into this category<sup>140</sup>.

These first considerations are not immediately followed by his justification of the ecclesiastical attributions over the infidel. He opted for enumerating first the cases that legitimated the intervention of religious authorities:

*“Hoc autem retentor, dictas; quod aut Iudaeus deliquit circa contemptum fidei orthodoxae, vel impedimentum officii Inquisitionis, aut deliquit circa fidem eorum, aut aliter deliquit penitus extra praemissa. Primo casu quando deliquit circa fidem nostram, uidelicet contemnendo & vilipendendo eam, vel etiam committendo aliquid in contumeliam Creatoris, seu Saluatoris & in contemptum ipsius, puta vituperando ecclesias, vel altarias, seu etiam sacra ornamenta ecclesiae vel similia, item etiam cum impedit Inquisitorem circa explicationem sui officii”*<sup>141</sup>.

Ugolini built his reasoning in favour of the inquisitorial jurisdiction on the grounds of this list. His justification was drawn on a concise, simple, and straightforward reflection. He asserted that if the Church could not act against offences such as blaspheming against Christ or hindering the task of inquisitors, Jews would be in a more privileged legal position than Christians. That is, Jews would have immunity to blaspheme and despise the Church, a situation that could not be tolerated<sup>142</sup>. The plainness of his logic, freed from fussy legal arguments, made this premise almost incontestable. Nevertheless,

<sup>139</sup> HILL, *Inquisition in the Fourteenth Century*, op. cit., p. 46.

<sup>140</sup> *“Sed tamen dic, quod supra dicta & infra dicenda intelliguntur de christianis baptizatis, & iam alligatis fidei, & postea errantibus. Nam alii noj baptizati sunt extra ecclesiam: quae non intronitit se de eorum reductione nisi verbis, & blanditiis, seu rectis consiliis (...) licet. Nam alligati fidei catholicae per baptismum, cogendi sunt ipsam fidem colere, & seruare: non alligati vero non sunt cogendi.”* UGOLINI, *De haereticis*, 2.20.

<sup>141</sup> UGOLINI, *De haereticis*, 36.2.

<sup>142</sup> *“Praeterea, si diceremus quod Inquisitor non posset eos punire; iam sequeretur, quod essent melioris conditionis, quam Christiani: & iam ex sua nequitia exemptionis priuilegium obtinerent: quod esse non debet.”* UGOLINI, *De haereticis*, 36.3.



Ugolini acknowledged that the spiritual dimension of the judicial process hindered the chastisement of non-Christians. He resorted to the same solution that his predecessors put forward and advocated the indirect path: chastising Christians who interacted with the Jewish infringer. These obstacles did not affect earthly punishments, which could be both economic and physical<sup>143</sup>.

One apparent omission stands out in the list. The Talmud and other blasphemous Jewish texts are not mentioned. Indeed, the treatise is utterly silent about this topic. Considering the impossibility of Ugolini forgetting about the Talmud, it might be assumed that he thought it implicit within any of the listed categories, possibly within '*contemptus fidei orthodoxae*'. His approach to relapsed converts was likewise superficial, as he deemed them—following the well-rooted Christian doctrine—Christians and, thus, natural subjects to Canon Law. Ugolini recalled that they were not Jews anymore and had to be treated as Christians<sup>144</sup>. Sixteenth-century editors did not find this reasoning evident, and they decided to include a comment by the Dominican bishop Camillo Campeggi (d. 1569) on false converts and proselytes following Ugolini's explanation (also in the edition of 1579)<sup>145</sup>.

The influential *Directorium inquisitorum*, published in 1376 by the Catalan Dominican Nicolau Eymerich, was followed a similar style<sup>146</sup>. The *Directorium* was one of the most voluminous inquisitorial manuals produced in the Middle Ages. It was written when the medieval ecclesiastical jurisdictional theory had been widely developed, including its power over the Jews, which turns this manual into one of the most comprehensive of the period. Unlike Gui, Eymerich, also a veteran inquisitor himself, opted for a theoretical perspective rather than a case-based manual. He composed his manual to be accessible and clarifying for readers who might not always be versed in legal reasoning and terminology. As Derek Hill sarcastically noted, Eymerich was filling a gap in the market<sup>147</sup>. His polemics with the Catalan-Aragonese court and his open disputations with the king's juriconsults, who were reluctant to accept inquisitorial interferences in matters that they held to be under the royal control—including Jewish affairs—might have advised Eymerich for a cautious development and justification of the inquisitorial powers. Indeed, the *Quaestio XLVI* of the *Directorium*, titled '*De infidelibus contra fidem Christianam delinquentibus, an iurisdictioni Inquisitorum subdantur*'<sup>148</sup>, first appeared

<sup>143</sup> UGOLINI, *De haereticis*, 36.4.

<sup>144</sup> "... *superius allegatis quia non sunt cogendi, nisi iam fuissent baptizati & sic Christianae fidei alligati.*" UGOLINI, *De haereticis*, 36.6.

<sup>145</sup> UGOLINI, *De haereticis*, 1579.

<sup>146</sup> [EYMERICH], *Directorium inquisitorum*. The impact of the manual is well attested by the notorious number of manuscript copies circulated in Europe throughout the fourteenth and fifteenth centuries. See the catalogue prepared in HEIMANN, *Nicolaus Eymerich*, pp. 175ff.

<sup>147</sup> HILL, *Inquisition in the Fourteenth Century*, *op. cit.* p. 49.

<sup>148</sup> The sixteenth-century editor of the *Directorium*, the Aragonese Francisco Peña, updated the manual, adding a doctrinal commentary titled "*Comment. LXXI*". For Peña's additions, see PETERS, "Editing Inquisitors' Manuals in the Sixteenth Century: Francesco Peña and the Directorium of Nicolas Eymerich"; DUNI, "The Editor as Inquisitor: Francisco Peña and the Question of Witchcraft in the Late Sixteenth

as an apologetic work to defend the involvement of the inquisition in a process against an Aragonese Jew called Astruc de Piera at the beginning of the 1370s. The opposition of royal justice to his jurisdictional claims led to an intense intellectual and diplomatic disputation<sup>149</sup>.

Eymerich began his discussion by commenting on the similarities between Christianity and Judaism<sup>150</sup>. He noted that both religions believed in a single God and shared part of the revelation. The Jewish denial and crucifixion of Christ produced the split of the believers into two groups. The existence of shared dogmas entitled Christian authorities to punish as heretical those blasphemies common to both religions. Eymerich then remarked on the traditional legal doctrine establishing that the Jews who have accepted Christ, even if they were forced to do so, were bound by their oath. Relapsed converts were to be treated as apostates. Following Gregory IX's doctrine, he included the proselytes and the accomplices of the apostates within this category<sup>151</sup>. However, Eymerich's views in this regard were more extensive compared to his predecessors. He went a step beyond by linking Jewish proselytism with daemon worshipping. It is indeed difficult to assert whether satanic worshippers<sup>152</sup> and proselytes were completely assimilated or whether they conformed to two different crimes<sup>153</sup>.

Justifying the Church's competencies to prosecute infidels soon appears more relevant to Eymerich than discussing the offences and the procedure. His positions started out from the premise that the Pope was the vicar of Christ, whose spiritual jurisdiction outstripped any terrestrial power<sup>154</sup>. The infidels, despite not having accepted Christ, were

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Century"; and GRAU TORRAS, "Nota sobre la tradición manuscrita del directorio inquisitorial de Ramón de Penyafort y la edición de Francisco Peña (1578)".

<sup>149</sup> For an account of the conflict, see Heimann, *Nicolaus Eymerich, op. cit.*, pp. 56ff. Eymerich's treatise was contested, among others, by the royalist Carmelite friar Felip Ribot (d. 1391) in *Tractatus de haeresi et de infidelium incredulitate et de horum criminum iudice* (edited in DE PUIG I OLIVER, "El Tractatus de haeresi et de infidelium incredulitate et de horum criminal iudice, de Felip Ribot, O. Carm."). Eymerich stroke back again with the publication of the *Tractatus brevis super iurisdictione inquisitorum contra infideles fidem catholicam agitantes* (edited in PERARNAU I ESPELT, "El Tractatus brevis super iurisdictione inquisitorum contra infideles fidem catholicam agitantes de Nicolau Eimeric: Edició i estudi del text").

<sup>150</sup> [EYMERICH], *Directorium, Secunda pars*, Q. XLVI.1-3.

<sup>151</sup> Eymerich deeply analyses the crime of apostasy in [EYMERICH], *Directorium, Secunda pars*, Q. XLIX.

<sup>152</sup> John XXII, much more concerned about the danger of magic and sorcery than his predecessors, encouraged inquisitors to proceed against satanic worshipers, including witches. See BEN-YEHUDA, "The European Witch Craze of the 14th to 17th Centuries: A Sociologist's Perspective", p. 4. On the other hand, the increasing perception of sorcery as a major threat to Christian society favored popular associations between it and Judaism. See, DEANE, *A History of Medieval Heresy and Inquisition*, pp. 198-199.

<sup>153</sup> [EYMERICH], *Directorium, Secunda pars*, Q. XLVI.4. Eymerich had already traced strong links between Jews and satanic conjurers in his earlier treatise *De iurisdictionem inquisitorum in et contra christianos demones invocantes*. See, HEIMANN, "Nicolaus Eymerich OP. Der Inquisitor und die Juden im Aragon des 14. Jahrhunderts", p. 141.

<sup>154</sup> Here Eymerich follows the doctrine in favour of the supremacy of the spiritual power over the temporal power as instituted by Boniface VIII in the bull *Unam sanctam* in 1302 ("*temporalem auctoritatem spirituali subiici potestati*"). CLEMENS V, Lib. I Tit. VIII Cap. I. Giacomo da Viterbo, one of the most determined theoreticians of papal supremacy at that time, justified this principle as follows: "*Quoniam autem manifestum est ex predeterminatis quod summa potestas spiritualis, cuiusmodi est potestas summi*

part of the creation and subject to God and his laws. Therefore, the nature of the papal office implied universal jurisdiction. Moreover, he noted that God also punishes those who do not follow natural laws<sup>155</sup>. Likewise, his justice reaches those whose actions or doctrines entail a noticeable danger to the evangelical laws. At this point, Eymerich made a radical interpretation of the bull *Ad abolendam* by extending the consideration of heretics from those who perverted the dogma to those who held any opinion contrary to the Christian canon, which justified the intervention of the inquisition against infidels who sin against the laws of the Church: ‘*Non solum est haereticus qui, male sentiens de articulis fidei, vel sacramentis Ecclesiae (...) sed etiam qui perversum habet dogma, vel falsas vel novas opiniones gignit, aut sequitur, (...) aut si est contra determinationem doctrinam Ecclesiae*’<sup>156</sup>.

Eymerich’s defence of the universality of papal jurisdiction led him to relativise the dualistic nature of the anti-heretical judicial process. He noted that the Church could not impose physical punishments on suspects who were not under its direct territorial jurisdiction. Culprits had to be delivered to the secular powers for earthly chastises. However, Eymerich did not conceive this division as two separate processes or a co-operation between two equal jurisdictional authorities with different functions. The involvement of the secular powers was a prerogative granted by the Church. Lay judges were entrusted to deal with punishments that entailed blood-shedding, a task that was untoward for the religious authorities. Therefore, only the Church had the power to justify its enemies, while earthly powers were bound to cooperate because it was their duty as Christian subjects<sup>157</sup>. Eymerich summarised his conclusions as follows:

“*Non obstantibus igitur canonum & legum allegationibus, & impugnationibus antedictis, patet clare, que Iudaeorum & aliorum infidelium fidem Christianam pravis dogmatibus impugnantium, seu alias modis praedictis contra fidem Christi delinquentium, & agentium, cognitio, iudicium & punitio pertinet de iure ad iudices ecclesiasticos: quia ad Episcopos & Inquisitores haereticae pravitatis, & non ad principes seu dominos temporales: licet executio pertineat ad ipsos iudices saeculares, quando punitio transit in vindictam sanguinis; & sic delinquentes debeant animadversione debita, hoc est vltimo supplicio castigari, prout in haereticis de iure & consuetudine est siendum.*”<sup>158</sup>

*pontificis, primatum obtinet super omnes pontifices omnium ecclesiarum, est etiam superior dignitate et causalitate omni temporalis potestate, ideo concludi recte potest quod in summo pontifice preexistit plenitudo pontificalis et regie potestatis.*” VITERBO, *De Regimine Christiano*, p. 262. Eymerich’s argumentative resort to *Unam sanctam* is more evident in the *Tractatus brevis* (PERARNAU I ESPELT, “*El Tractatus brevis*”, pp. 106-109).

<sup>155</sup> Eymerich quotes here Gen. 19, on the annihilation of the Sodomites.

<sup>156</sup> [EYMERICH], *Directorium, Secunda pars*, Q. XLVI.5-7. Eymerich’s statement is a literal reproduction of Giovanni d’Andrea’s gloss to Clement V’s decretal *Ex gravis*. See, [GIOVANNI D’ANDREA], *Incipiu[n]t Constitutiones Clementis pape*, Lib. V, “De usuris” (Biblioteca de Catalunya, Inc. 17-fol, f. 43v).

<sup>157</sup> [EYMERICH], *Directorium, Secunda pars*, Q. XLVI.8-10.

<sup>158</sup> [EYMERICH], *Directorium, Secunda pars*, Q. XLVI.16.

While the bulls *Nolentes* and *Multorum quaerela*—together with *Dudum felicitis recordationis* in the particular case of Judaism—signified the maturity of the legal design of the medieval inquisition, Ugolini and Eymerich’s manuals culminated its doctrinal development. The Church had elaborated a solid hermeneutical apparatus capable of exploiting its jurisdictional power and overcoming the formal limits of its attributions. The construction of the inquisitorial jurisdiction accompanied a political agenda boosted by the necessity of the Holy See to fight the potential threats to its authority and unity. As was noted at the beginning of this article, bulls and treatises formed an ideal dimension that did not always meet the reality of legal practice. Nevertheless, the coherence of the system devised by the canonists allowed ecclesiastical officers to defend their positions on firm theoretical grounds. According to Ugolini and Eymerich’s treatises, the Church considered it legitimate to intervene against the Jews for exclusively religious matters in three scenarios: i) against individuals who were suspected of pronouncing blasphemies common to both religions; ii) against blasphemers of the elemental Christian dogmas, including those who hold blasphemous texts or commit sacrilegious acts, and iii) relapsed converts, their accomplices, and proselytes.

## 5. Conclusions

The elementary conclusion of this inquiry is that the consolidation of the inquisitorial powers over the Jews was only achieved after a long process of hermeneutical development. Jurisdictional progress resulted from a combination of theories and facts. In many cases, the steps taken in this direction were carried out in response to historical events that moulded the Christian perception of Judaism. Changes in interreligious relationships increased the Holy See’s eagerness to monitor Jewish texts and dogmas. Nevertheless, papal political manoeuvres would have been unmanageable without the continuous refinement of legal reasoning as conducted by the canonists of the period. The only exception to the uninterrupted search for new arguments and procedural strategies to extend judicial prerogatives over the Jews was the prosecution of relapsing converts. This criminal category is the only one that never posed a theoretical challenge to clerical authorities. Their Christian condition prevailed over their Jewish origins, which made them natural targets of the inquisition.

Medieval inquisition, as it was initially configured in the late-eleventh century, did not perceive the Jews as potential enemies. At that time, its *raison d’être* was to fight a specific and pressing enemy, Christian heretics. The spreading of dissent was an urgent threat worthy of all the military and judicial efforts of Christendom for its eradication. Not only did the needs of the hour advise for prioritising the persecution of heresy, but also the Christian legal system shared this lack of concern for the Jewry. For instance, Gratian’s *Decretum*, then the cornerstone of Canon Law, set stark boundaries between heresy and Judaism. Augustinian theses on tolerance were to be observed as the basis of Christian-Jewish relationships. Social interactions had to be restricted, but the Hebrew

people were not considered a menace. In contrast, heresy had to be combated with the faith and the sword until its entire annihilation.

A timid shift in the jurisdictional capacities of the inquisition became noticeable in the first decades of the thirteenth century. Ramon of Penyafort, the later compiler of Gregory IX's Decretals, discussed in his *Summa de casibus* the possibility of punishing the accomplices of apostates. However, the general trend of the period was to keep the focus on suppressing heresy. The paradigm started to change when the Talmud came onto the scene and triggered the alarms of Christian thinkers and rulers. The disputations of Paris (1240) and Barcelona (1263), as well as Odo of Châteauroux's sentence condemning the Talmud (1248), had profound implications for Christian-Jewish relations. Besides the alleged anti-Christian blasphemies identified in the text, the mere existence of the Talmud shook the traditional theological approach to Judaism. The Church realised that Jews possessed a new Law that was claimed to have been revealed by God. It contradicted the idea of an ignorant and stagnant people upon which the Augustinian theses were founded. They became a dynamic and blasphemous enemy capable of threatening the very bases of Christian dogma. Consequently, a decided and proactive response was needed to neutralise the new menace, now embodied in textual attacks, proselytism, and attracting converts back to their old religion.

Pope Clement IV's bull *Turbato corde* (1267) captured the new spirit. The papal decree expanded ecclesiastical jurisdiction over relapsed converts, their accomplices, Judaized Christians, Jewish proselytes, and blasphemers. Nevertheless, the most relevant aspect of the bull is the terminology. The listed offenders were to be deemed heretics and treated as such. Therefore, they were to be considered criminals of lèse-majesté, traitors to the pope and Christ. Although considering relapsed converts and their accomplices as heretics did not contradict former doctrines, the application of the new bull to the Talmud was more problematic. Polemical rhetoric and legal practice split into two distinct realities following different paths. The successors of Clement IV continued the anti-Talmudic campaign, but not on the extreme grounds envisaged in the *Turbato corde*. Moreover, the bulls and manuals produced in the late thirteenth and at the dawn of the fourteenth centuries kept the accent on the persecution of heresy, while the Talmud and Jewish blasphemers were apparently relegated to a secondary plane.

The promulgation by John XXII of the bull *Dudum felicitis recordationis* (1320) revitalised the fervour against Jewish blasphemies. Unlike thirteenth-century enactments, the new papal edict immediately impacted on the production of manuals. Less than five years later, Bernard Gui circulated his *Practica inquisitionis* (1324). His treatise inaugurated a new generation of inquisitorial handbooks, usually more comprehensive and detailed than their predecessors. Furthermore, they were composed once the legal development of the medieval inquisition had reached maturity. Gui elaborated his manual on dozens of samples and use-cases collected from his experience as an inquisitor in the Languedoc. He was the first author to incorporate specific materials to guide inquisitors in the interrogation and prosecution of Jews. The *Practica inquisitionis* was followed by Ugolini and Eymerich's manuals (c. 1330 and 1376, respectively). They both adopted a theoretical perspective opposed to the practical character of the *Practica*

*inquisitionis*. This approach permitted their authors to devote more effort to justify and legitimatise the jurisdictional powers of the Church—which were often challenged by secular justice. These later manuals also contributed to systematise and summarising the list of crimes committed by Jews falling into the scope of the inquisition: blasphemies common to both religions, blasphemies against the elemental Christian dogmas, and relapsed converts, their accomplices, and proselytes.

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