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TORTURED TESTIMONIES

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ABSTRACT

Manuals of jurisprudence in early modern Europe stipulated that the notary record not only the words but also the grimaces and the screams of the defendant during interrogations under torture. This paper explores these "tortured testimonies" from the Roman Inquisition, problematizes them as historical sources, and offers suggestions about how historians might approach them. The article examines the documents under two lights: (1) in relation to the institutional structures and protocols which gave them their particular form; and (2) in relation to the cultural assumptions that shaped a ritual in which pain was seen as an index of the conscience of the accused.

Key words: inquisition, torture, testimony, notary, pain, trauma

TORTURA E DEPOSIZIONI

SINTESI

I manuali di giurisprudenza risalenti agli inizi dell'Europa moderna stabilivano che il notaio registrasse non solo le parole ma anche le espressioni facciali e le grida dell'accusato durante gli interrogatori sotto tortura. L'articolo esplora alcune deposizioni sotto tortura presso l'Inquisizione romana, problematizzandole come fonti storiche e proponendo suggerimenti sulle modalità di accostamento a esse da parte degli storici. L'articolo esamina i documenti sotto due ottiche, vale a dire: (1) in relazione alle strutture istituzionali e ai protocolli che stanno alla base della loro forma peculiare; (2) in relazione alle assunzioni culturali che davano forma a un rituale in cui il dolore era visto come indice della coscienza dell'accusato.

Parole chiave: inquisizione, tortura, deposizione, notaio, dolore, trauma

"[I]t was ordered that he be stripped and tied to the rope (*mandatum fuit ipsum spoliari et ad funem alligari*) [...] and then it was ordered that he be raised up (*tunc mandatum fuit ipsum alciari*)."

These words, found in hundreds if not thousands of trials from early modern Italy, are almost always followed by a record, at times lapidary, at other times detailed, of the defendant's statements, gestures, and screams, the latter often expressed simply as "*Oimé, oimé*"[1] (Masini, 1730, 268). The documentation of scenes of torture – with notes on the procedures followed, records of words spoken in pain, and even efforts to translate pain into written symbols – constitutes what I call "tortured testimonies." Most of these testimonies were gathered when defendants (suspected of heresy or witchcraft) were subjected to the *strappado*, a torment in which they had their hands tied behind their backs and were then fastened to the *fune* or the *corda* (rope) before being hoisted up, often to the height of a man, and then dropped only to have the rope catch them up in the *squasso*, a jolt or jerking motion that almost always resulted in the painful dislocation of their shoulders. Such records carry the scholar to incidents of violence in which not even the distance of centuries can erase a sense of unease. And yet we cannot *not* read these "tortured testimonies," as they are crucial to our understanding of the social and religious history of the late medieval and early modern world. But how should we read them? What sense can we make of such records?

These testimonies are problematic not only insofar as they constitute representations of suffering deliberately inflicted by one human being on another but also as sources. Can we trust them at all? Possibly not. "*Dic quid me velis dicere*" – "Tell me what you want me to say." A person under torture is likely to utter these words – anything to make the pain stop.[2] In his *Essays*, first published in French in the sixteenth century, Montaigne made it clear that he saw truth as one of the casualties of torture. "Torture is a dangerous invention," Montaigne wrote, and it seems that it is more a test of patience than of truth. For he who is able to withstand it will keep the truth hidden, as will he who cannot" (Montaigne, 1633, 284). In 1787 Neapolitan *philosophe* Francesco Maria Pagano, reflecting a growing Enlightenment consensus on the folly of torture, wrote in his *Considerazioni sul processo criminale* (*Considerations on Criminal Procedure*) that, "a confession, extracted under torture, is the

1 Masini's manual was first published in 1631 and frequently reprinted. In the footnotes I have marked with an asterisk titles consulted on Google Books at the time I completed this research: December 2009 and January 2010.

2 Anthony Grafton offers a compelling indictment of testimony given under torture (Grafton, 2007). Arguments against the reliability of such testimony have a long pedigree: see, for example, Alessandro Manzoni's nineteenth-century citation of the phrase "*Dic quid me velis dicere*," attributed to the Macedonean commander Philotas who was tortured by Alexander the Great in the early fourth century B.C.E. and echoed in the infamous trial against the "*untori"* (spreaders of plague) in Milan in 1630 (Manzoni, 1984, 68).

expression of pain, not evidence of the truth" (Pagano, 2006, chap. XIII). Indeed, despite the persistence of torture in the contemporary world, most are likely to see this practice as barbaric and counterproductive, more likely to produce falsehoods than truth. It was (and is) a "crudellissima cosa," an "inumanissima practica," as the Milanese *illumanista* Pietro Verri wrote in 1777 (Verri, 1997, 62, 59).

Yet it is one thing to condemn the practices such records represent, another to try to make sense of them. Tortured testimonies are, of course, only one facet (and a relatively small one) of the rich and even enticing inquisitorial documents preserved in the archives of Catholic Europe. Using testimony taken in the course of the trials themselves – when no torture was involved – historians have been able to recreate the experiences of ordinary men and women that might otherwise have been entirely lost to posterity. In Italian scholarship this accomplishment was most notable in Carlo Ginzburg's *The Cheese and the Worms* (Ginzburg, 1976). Ginzburg's famous comparison of the records of the inquisition to the field notes of an anthropologist underscored the enthusiasm in which cultural and social historians first embraced these records (Ginzburg, 1989). More recently, however, it has become clear that Ginzburg and other scholars of his generation such as Emmanuel Le Roy Ladurie, author of a best-selling book based on the records of a late medieval investigation into heresy in Languedoc (Le Roy Ladurie, 1975), did not do enough to see how profoundly the institutional, juridical, and bureaucratic contexts shaped the testimony (Pullan, 1983, 132; del Col, 2000, 67). But tortured testimonies themselves have received very little attention (Sriccioli, 1991).

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Today torture generally takes place in the shadows: in the nether lands of military prisons or the holding cells of police states. In late medieval and early modern Europe, by contrast, it was administered under the bright lights of the law. As a result, we are not lacking for sources, as, indeed, most jurists from the thirteenth to the eighteenth century viewed torture as essential in the pursuit of justice, whether in secular or ecclesiastical courts. To a large degree, its necessity grew out of the requirement in the Roman legal tradition that an individual only be convicted of a crime on the basis either of the testimony of two eye-witnesses or of a confession by the accused to his or her guilt (either one of which was held to constitute "full proof"). If, therefore, clear, unambiguous, and conclusive evidence pointed to guilt of a defendant but he or she refused to confess voluntarily, the inquisitor or judge could use torture to extract or to attempt to extract a confession. The reliance on torture, therefore, stemmed in part from a judicial epistemology that insisted that the crime be "spoken" before proven – circumstantial evidence alone was not enough. But torture was also a function of a political and ecclesiastical system that placed little faith

in the judge's discretion by requiring not merely evidence but indeed "certainty" of guilt before convicting the accused of a crime, with the understanding here that "certainty" could only come from specific, plausible statements made by either two eyewitnesses or the defendants themselves (Langbein, 2006; Fraher, 1989).

In criminal cases in which there was clear evidence that a crime had occurred, torture was used primarily to confirm what the judges already "knew" on the basis of the evidence gathered. But cases of heresy posed additional challenges. The crime of heresy was, after all, not visible but lay in the heart or mind of the accused. As the sixteenth-century Spanish jurist Diego Simancas, citing Augustine of Hippo, had noted, "a heretic is not one who lives badly but one who believes badly ('*qui male credit*')."[3] Indeed, it was because heresy "lurks in the heart of the heretic," that Vincenzo Castrucci, inquisitor in Umbria in the late sixteenth-century, argued that judges should be even more disposed to using torture in cases involving heresy than in other crimes.[4] At about the same time Francesco Peña, in his highly-influential commentary on Eymeric's fourteenth-century *Directorium inquisitorum*, praised the "custom of torturing defendants, especially in these times, since, without torture, criminals rarely confess to their crimes."[5] And in his *Sacro arsenale*, first published in 1621, the Genoese jurist Eliseo Masini reiterated the difficulty inquisitors faced in trying to get to the heart and soul of a defendant.

"And the inquisitor should take particular notice that those beliefs that go against the faith reside in the soul, and only God can see and judge these without fault. And, although the mortal eye does not have the strength to penetrate to the soul, nonetheless, from heretical words and deeds, one may presume the presence of error and corrupted faith in the mind. Therefore, it the defendant should make a confession in court to having blasphemed or acted in a heretical fashion, he should be examined immediately over his intentions and his beliefs" (Masini, 1730, 186).

The excavation of belief or intent was fundamental, therefore, to the inquisitorial process. The crime that was being investigated did not involve merely external acts but internal beliefs. It was getting to this level of interiority that mattered to the inquisitors, and not only because they were attempting to determine guilt or innocence but also because they were attempting to save the heretic's soul and to proffer him or her an op-

3 "Non est haereticus, qui male vivit, sed qui male credit" (Simancas, 1575, 228). The first edition of this work was printed in Valladoid in 1552. Simancas' work is significant in part because of its defense of torture against the famous critique of this practice by the Spanish humanist Juan Luis Vives (Simancas, 1575, 495ff.).

4 "in corde heretici latet" (Castrucci, 2000, 357).

5 "consuetudinem torquendi reos, maxime his temporibus, quibus facinorosi vix ullis cruciatibus delicta commissa fatentur" (Eymerich, 1578, 226).

portunity to repent. Masini captured the dual nature of the inquisitor's role succintly: "when the evidence is legitimate, sufficient, and clear and (as they say) decisive in its own way, the inquisitor can and should [carry out torture], without any blame, so that the defendants, confessing their sins, convert to God and save their souls through punishment" (Masini, 1730, 263). Thus even confessions that served as the basis of salvation did not obviate punishment. Inquisitors distinguished between the judicial and the internal "forum", and, while the priesthood had authority over the later, the Holy Office still maintained power over the former. In theory, therefore, a confessed heretic may have found divine salvation only to be sent to the stake by his earthly judges.

Yet these very same jurists and their contemporaries were equally aware of torture's intrinsic shortcomings, often citing the Roman jurist Ulpian (d. 228) who had characterized torture as a "*res fragilis et pericolosa*" ("a fickle and dangerous matter") since it was a procedure that frequently resulted in the conviction of the innocent and the absolution of the guilty.[6] As a result, some jurists – Francesco Casoni of Oderzo (ca. 1500–1564) stands out – went out of their way to argue for limiting the circumstances under which it could be used.[7] The inquisitorial courts in Italy, in practice, tended to follow this more cautious approach. In the second half of the sixteenth century, for example, inquisitors routinely sought permission from Rome before proceeding to torture a suspected heretic (Tedeschi, 1986, 16). It is even possible that popular opinions acted as a restraint on judicial abuse. In his influential *Prattica criminale* (*Criminal Procedure*), for example, the Venetian jurist Lorenzo Priori warned judges and inquisitors that the accidental death of a defendant under torture could give rise to a popular uprising against them (Priori, 2004, 169). And there is fragmentary evidence of popular disapproval of torture, at least when it was used too readily. Sigismondo Arquer, for instance, denounced the officials of the Spanish Inquisition in Sardinia, who, in his view, proceeded "with such severity against suspects that it can't be expressed in a few words."[8] Nonetheless, it is

6 Nor was torture a procedure limited to the production of a confession. The torture of witnesses was broadly permitted. While the approval of both inquisitor and the bishop was required before torturing a defendant, Peña allowed for either the bishop or the inquisitor to initiate torture against a witness who was believed to be lying (Eymerich, 1578, 377; Mandosius, 1575, 268; Priori, 2004, 107). On the use of torture to extract the names of accomplices (Mandosius, 1575, 773; Priori, 2004, 102). As Loredana Garlati Giugni has noted, "torture, itself multifaceted and adaptable to any situation" was used for a wide variety of purposes (Anonymous, 1999, 157).

7 Of the jurists I have read on the subject of torture, Francesco Casoni offered the strictest limits on the use of torture. Casoni is frankly critical of the abuse of torture by certain judges: "est et communis error iudicum putantium torturam esse arbitralem, quasi natura corpora reorum arbitrio suo ad lacerandum creavit; contra quos dico, quod quando esset simpliciter arbitrium (quod tamen non conceditur) tale arbitrium reduceretur ad ius commune" (Casoni, 1557, 65v–66r).

8 "qui tanta severitate contra suspectos procedunt, ut paucis verbis exprimi nequeat" (Arquer, 1987, 31). This work was originally published in Sebastian Münster's *Cosmographia* in 1544.

unlikely that either learned or popular opinion imposed a meaningful check on torture. Treatises on judicial practice make it appear that the practice was widespread.[9]

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The clearest way in which the tensions between the recognition of the necessity and even, at times, the desirability of torture, on the one hand, and the deeply-held concerns about its effectiveness, on the other, stamped the inquisitorial record of tortured testimonies was in the stipulation that a confession given under torture was not valid *per se* but needed to be ratified by the defendant twenty-four or more hours after it had been given. This important requirement played a key role in shaping what the notary wrote down at the scene of torture. The goal, after all, was not to record every word but rather every pertinent word and to create a document that would play an instrumental role in the resolution of the case. During the actual proceedings, the notary would have made notes of what occurred and transcribed the questions, the statements, and the screams. Shortly afterwards, he would have drawn up an official copy (del Col, 2000, 67). It was this copy that was then read to the accused for ratification and required the signature or the mark of the accused before the confession could be deemed valid. As Masini noted, at the rite of ratification the notary was to read "the record of the interrogation [taken during torture] to the accused, word for word, in order that he understand clearly" (Masini, 1730, 284).

On the one hand, this procedure indicates that the judges were fully aware of the possibility that, under torture, a person accused of a crime or a heresy could easily lie to escape from the pain to which he was subjected. On the other hand, this original use of the transcript of the scene of torture by the courts must have placed many victims of torture under considerable pressure to ratify their earlier testimony. What appears, at first, to be purely testimony in fact turns out to be – in addition – a means to the verification of a confession. It is, therefore, a testimony that produces yet further testimony. This also means that what we read are the statements pertinent to convictions and not everything the defendant said. Indeed, when a heretic was examined *pro ulteriori veritate habenda* – that is, to uncover his intentions even after he or she had confessed to words or deeds that were deemed heretical – inquisitors were to exercise extreme caution in limiting their questions to matters of intention and not to earlier statements that had already convicted the heretic, and notaries had strict instructions about what to and what not to write down (Masini, 1730, 269). We should not, therefore, assume that the testimonies gathered under conditions of torture are complete. Furthermore, as legal documents, these records needed to fit precise proto-

9 "Tormentorum & quaestionum usus in causis criminalibus frequentissimus est, & inquisitores apostolici saepissime reos torquere solent" (Simancas, 1575, 494).

cols in order to be authenticated and serve as official documentation of the guilt (or innocence) of the accused. This was a well established principle found, for example, in the works of the late medieval jurist Baldus de Ubaldis, who noted that a confession taken under torture, "is not valid per se, but through its ratification, the reputation [of the accused], or the likelihood of its truth, or with other supporting facts, undoubtedly points to the truth."[10] Thus, on the one hand, it is often possible even for the historian to corroborate the testimony given under torture with other testimony from the same (or other) trials. On the other hand, we shouldn't assume that we are reading a complete record of what was said.

Secondly, over time, the documentation of the scene of torture took on ancillary functions. It is clear from the history of the notarial protocols that in the thirteenth and fourteenth centuries, notaries only preserved the confessions. In these centuries, as Piero Fiorelli has noted, "the notary only recorded in his official books the definitive results of the interrogation" (Fiorelli, 1953, 71). But from the late fifteenth century on notaries also began to provide detailed descriptions of the procedures that were followed (Fiorelli, 1953, 124). In the *Singularia iuris in favorem fidei* (*Articles of Law in Support of the Faith*) of the Spanish inquisitor Juan Rojas, a work published in Venice in the late sixteenth century with a commentary by Francesco Peña, it was stipulated that "the notary should write everything down in the acts of the trial diligently and precisely: namely the time at which the torture was started and when it was terminated; and the questions of the judge and the responses of the defendant: and, when the torture is completed, that the defendant has not been physically harmed in the process."[11] Similarly Lorenzo Priori wrote in his *Prattica criminale*, "in particular the notary or the chancellor should write down in the acts of the trial the duration and the nature of the torture" (Priori, 2004, lxxi). The records, therefore, served a defensive purpose, documenting that the judges or inquisitors were following established and legal procedures when applying torture – a practice that was clearly subject to abuse. Thus the notary typically recorded the names of the individuals present, the physical condition of the accused, the nature and the duration of the procedure. For example, when the Friulan miller Menocchio – now the celebrated protagonist of Carlo Ginzburg's *The Cheese and the Worms* – was tortured in August of 1599, the notary's account makes it clear that Menocchio was physically capable of withstanding torture, that he was tortured for less than a half hour, that he was tortured at the appropriate time of day, and that the torture was "moderate," all points

10 "non per se, sed perseverantia, vel fama, vel verisimilitudine facti, vel aliis adminiculis, indubilitabiliter indicat veritatem" (Rosoni, 1995, 76).

11 "Notarius omnia diligenter & particulariter in actis processus conscribat: videlicet tempus quo inchoatur & finitur tortura, & modum & qualitatem torturae, & interrogationes iudicis atque rei responsiones: finitaque tortura quod reus sine laesione recognitus remanet" (Rojas, 1583, 119r–119v).

of information that demonstrated – along with the names of all those who were present at the scene of torture – that correct procedures were followed (Del Col, 1990, 206–207). The documents we read from the torture chamber, therefore, are not merely records of what happened but also warrants that the procedure was legal. The inquisitors had legal motivation for full documentation, for the failure to meet certain legal standards, could, at least in the case of the inquisitorial tribunals, lead to objections from Rome and even the dismissal of confessions that were viewed as improperly obtained by torture (Tedeschi, 1991, 143). Nonetheless, overall, the records are likely biased to protect the judges and the inquisitors. We can't be sure that procedures were followed even if they were described as having been followed.

But why did the notaries routinely record the screams of defendants? This was undoubtedly the norm in the early modern period. In his work on criminal procedure from the mid-sixteenth century Neapolitan jurist Pietro Follerio writes: "And the judge should examine the defendant many times and in diverse ways, and always have his responses written down in the acts by the notary. And if it seems that he is nervous or anxious when he speaks, the judge is to have this written down with the notary recording what he is commanded to record by the judge. And if it seems that the defendant moves his lips or his whole person, for if the judge sees any variation, any fear, or any pallor in the face of the accused (which is left to the discretion of the judge), he is to have all this written down. And the notary is to be required to write in this form: 'the judge ordered that I write down that the defendant's face changed color, that he was speaking fearfully, shaking and changed and vacillated – and I saw it in this way as well.'"[12] In the early seventeenth century Masini made a similar point: "And the judges should ensure that the notary writes down not only all the responses of the defendant but also all his reasonings and all the gestures and all the words that he offers while being tortured, not to mention all the sighs, all the screams, all the complaints, and all the tears that he gives forth" (Masini, 1730, 265). Finally an eighteenth-century Lombard jurist was more specific: "One should observe all the actions of the defendant while he is brought to the torture chamber and as he is stripped, tied up, and tortured. And one should write down his responses in detail. And when he is asked a question and does not respond, one should note his constancy to know if he suffers a lot or a little in order to be able to apply to him, if necessary, a more fitting torture. And all the things that the defendant does – not only

12 "Examinetque iudex dictum reum pluribus & diversis vicibus & semper faciat eius responsiones in acta redigi per notarium: videatque, si loquitur pavide, & trepide: & hoc faciat scribere, cum notarius debeat scribere de mandato iudicis [...] videatque quem motum faciat labis & tota persona, nam si iudex ex dictis rei viderit aliquam variationem, trepidationem, & vultus pallorem (quod relinquitur eius arbitrio) omnis scriberi faciat. Et tenetur notarius id scribere sub hac forma: Iudex mandavit mihi quod scriberem quod dictus mutavit colorem in facie loquitur pavendo, vel tremendo, variando, vel vacillando, & ita mihi visum fuit" (Follerius, 1556, 134).

his words but also his sighs themselves, as it were, should be noted down in the trial" (Anonymous, 1999, 312). But how much confidence can we place in these notations? In his text on inquisitorial practice Masini, as we have seen, actually suggested the use of the expression "Oimé, Oimé" as a means of recording the screams. Were the notaries simply relying on models provided them in legal manuals or on language and expressions passed onto them from earlier trials, or were they recording what they heard in the torture chamber?

To the inquisitors, the recording of the screams undoubtedly served multiple purposes. On the most banal, legalistic level, such a record could be used both to further intimidate the accused (when the transcript was read back to him or her) and to provide yet additional information about the legality of the procedure, making it clear that the judges did not go too far in the application of pain. Yet it is likely, as Fiorelli has noted, that much more was involved. In his work, Fiorelli observes, "since torture was never a mechanical or formal means of proof but was always used to test – through the resistance to pain – the sincerity of the declarations made by defendants and witnesses; and, as such, even outside the torture chamber, its effectiveness did not depend purely on statements or logical propositions but also, and even more, its value in making the defendants or the witnesses thoughts and feelings manifest. Thus the legal system did not only make use of torture to obtain from a defendant a confession or a declaration of fact – an affirmation or a negation – but also and above all to judge, through the reaction of the defendant to pain, his sincerity and credibility, to deduce not only from his words but from every aspect of his behavior, the truth of his declarations" (Fiorelli, 1953, 73–74).

Fiorelli's observations are trenchant, yet the screams were not, as he suggests, a supplement to the words spoken by the accused but as much a means of understanding the soul of the accused as were the words themselves. The inquisitors, that is, heard or read the screams as exterior signs of pain that the judges would have viewed as located in the soul of the accused. Describing the screams and the tears was critical. Both the Augustinian and the Thomistic traditions, each influential, located pain as an experience in the soul or the mind. St. Augustine had made this clear in his *The City of God*, where he writes, "the experience of pain belongs to the soul, not the body, even when the cause of its pain derives from the body."[13] Thus, while modern scholars are likely to privilege the words, early modern judges were equally attentive to the screams and other signs of distress that emerged in the course of the trial and, in particular, when the defendant was subjected to torture. The application of pain, therefore, was one of the means the inquisitors had at their disposal to read the minds of the accused.

13 "Animae est enim dolere, non corporis, etiam quando ei dolendi causa existit a corpore, cum in eo loco dolet, ubi laeditur corpus" (Augustine, 1955, 760).

Ultimately, then, inquisitors were dealing with invisible forces. Inquisitors were not only looking for factual information when torturing a defendant; even more crucially, they were attempting to assay the soul or the conscience of the defendant. Their goal combined, as we have seen, the roles of judge and pastor. As pastors, they hoped to bring heretics back to the Church, to reconcile them with their faith, and to provide them with an opportunity for penitence. As judges, they were tasked with protecting the Catholic community from threats of disorder and upheaval that the spread of heresy seemed to pose. Because they were focused, in both these roles, as much on the inner landscape of the defendant as on his or her words and deeds, they understood clearly that, ultimately, their own judgments were fallible and that only God could know the hearts of the accused. They also understood that the outcome of the trial itself lay in the Hands of God. To withstand pain was evidence, in such a cultural context, of innocence. Moreover, certain things were beyond the inquisitor's control. As the Castilian jurist Antonio de Quevedo y Hoyos argued in the late sixteenth century, "if God wishes that the crime be discovered and the criminal made known, his divine majesty will uncover and make known the evidence that this be the case; and if he does not, then it is possible that it is not God's will that he be punished in this world" (Agüero, 2004, 14). The responsibility placed on inquisitors was, accordingly, enormous. They faced censure if they improperly tortured an individual; they risked losing a case if an individual managed to withstand the pains of the torments and was "purged" of his guilt, and released.

But inquisitors also had to balance the expectations of the community with their own suspicions about the guilt or innocence of defendants. Crucially, the inquisitor did not carry out this responsibility by himself. The canons stipulated that both the inquisitor and the bishop or the bishop's vicar or deputy were to be present at the torture. The notary's presence was also required. In addition, a medical doctor was often in attendance; and inevitably prison guards were also present. What happened in the torture chamber, therefore, was not something that the inquisitor interpreted on his own; it is quite clear that the presence of others made the process of interpretation a social act. And while the larger community did not play as significant a role at the early modern scene of torture as it had in the medieval trial by ordeal, its presence was nonetheless felt (Brown, 1975). Thus, when the inquisitor listened to the words and read the grimaces and gauged the screams of the victim, he was looking for signs that would be consistent with the emerging view of the community about the guilt or innocence of the accused. He was, that is, attempting to read the conscience or the soul or an aspect of the interior state of the defendant not only on the basis of bodily signs and facial expressions but also on the basis of how others at the scene of torture reacted to the defendant's experience. For example, when the small group of individuals gathered in the torture chamber were not satisfied by the defendant's answers, it must have been easier to carry on with the interrogation than when they were

satisfied. This quasi-public character of judicial torture could have acted either as a break and a spur to the torments defendants endured.

To be sure, seasoned inquisitors were well aware of the complex nature of their interactions with defendants from the first moment they appeared in court. In several stunning pages of his magisterial *Tribunali della conscienza*, Adriano Prosperi has offered a compelling description of the "cat and mouse game" into which the inquisitor entered with the defendant in order to force the latter to give up the truth. Prosperi, drawing in particular on Umberto Locati's *Judiciale inquisitorum* (*Judicial Manual for Inquisitors*) first published in Rome in 1568, shows how inquisitors had the assistance of years and years of theory and practice to deepen their understanding of the best strategies they might follow in seeking to discern the truth in the course of their investigations (Prosperi, 1996, 202–206). But we see this with special clarity in Flaminio Catari's *Praxis et theorica interrogandorum reorum* (*Theory and Practice of Questioning Defendants*) in which the author offers a series of suggestions of how inquisitors should approach the questioning of a defendant, both in the preliminary portion of a trial and during torture. Not surprisingly, when it comes to both forms of testimony, inquisitors were deeply aware of the ways in which heretics might seek to disguise their beliefs, and Catari drew directly on Eymeric and Peña's *Directorium inquisitorum* in which the authors listed the ten strategies that defendants used in the course of their testimonies in order to escape detection by the judge. After reviewing these in their entirety, Catari turned to testimony under torture and notes that the judge "should consider whether the defendant responds promptly and clearly, for this is a sign of innocence; on the other hand, it will be a sign that he is guilty when he is not able to defend himself and when he rushes into his strategies and duplicities and evasion," adding shortly that pallor, shaking, or fearfulness can be a sign of suspicion.[14]

For the historian, therefore, the careful examination of tortured testimonies opens up a window onto a process that seems at first entirely capricious, but that depended on many factors in the establishment of guilt or innocence. So the historian is confronting something quite different from testimony *qua* testimony. The records of the scene of torture testify as much if not more to a particular juridical culture than to the facts outside the trial.

14 "Consideret etiam iudex, an statim, vel simpliciter reus respondeat, sive bene, sive male, signum enim est innocentiae, contra verum signum erit, quod nocens sit, qui, cum non posset defendere, statim currit ad sophismata sua, & duplicatates, & fugas verborum [...] etiam consideret, an reus audacter respondeat, vel pavide, vel trepide, vel alio modo, quo timere videatur: ex hoc enim in suspicionem incidit" (Chartarius, 1639, 69). The first edition of this work appeared in 1590.

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We must also attend to the nature of language uttered at the moment of being tortured, at least insofar as traces of this language are available to us in the records from the inquisition. Clearly such utterances did not constitute ordinary speech; and we should not read them as such. But how we should read them is by no means clear. In *The Body in Pain*, Elaine Scarry has underscored the value of reading the language that emerges from torture in the context of trauma and the various ways in the experience of torture appears to destroy the voice and ultimately the self of the victim (Scarry, 1985, 27–59).

On one reading trauma appears excruciatingly evident in the tortured testimony of Claude Banière, tried for heresy in Venice in 1580 (Martin, 1992, 219–224). The passage below is only a portion of the record:

"*It was then ordered that he be raised up*. 'Aaahh, aaahh, alas, O Lords, alas, alas, Lords, alas, Lords, I don't know anything. Lords, I don't know anything. I haven't had any companions. O My Lords, have compassion. O my God, o my Lords, I don't know anything.' *Screaming*: 'Have compassion for me, alas, Lords, a poor foreigner. O God, mercy, mercy. I can't say anything else. I haven't read to anyone, certainly no one. O My Lords, O My Lords, I can't say anything else. I don't know anything else. I don't know anything else. I don't know anything. You want me to damn my soul; this will damn my soul. O My Lords. O my dear Lords, compassion, mercy. Really I know no one. Really I know no one. I don't know anything. I haven't lent anyone a book – to no one, to no one. I didn't even read these books myself. I had more fear of the Father than when I said the Ave Maria. I didn't give anything to read to anyone. O Lords, mercy. I don't know anyone. Really I don't know anyone. O dear Lords, I don't know what else to say [...]. Lord, make me a martyr this way. O Lords, after this, I don't know what else to say. O dear Lords, O dear Lords, O dear Lords, mercy. O most distinguished Lords, dear Father Inquisitor. I don't have anything else. Mercy. Alas, dear lords, I don't know what else to say in truth. O my dear Lords. O Jesus. Jesus. God. I don't know anything else. I don't know anything else. Lords I don't know anything. Lords I don't know anything. Lords, I don't know anything.' *Screaming*. 'O dear Lords, I don't know anything. O Lords, you want me to die here. I am destroyed ['io sono distrutto'], so thin, a poor foreigner. O mercy'" (Del Col, 2006, 447–448).

The screams of pain, the recurrent submission of Banière to his judges, his repeated denials continue. Above all, the transcript *may* indeed show a self unmade, traumatized, with the result that the value of such language for understanding materials outside the trial is minimal, even as it provides rich material for understanding the

judicial culture of this period. Banière's statement to his Venetian tormentors – "io sono distrutto" – is a reminder that the pain he underwent undercut his very sense of identity, and his ability therefore to produce meaningful speech, at least while he was in the throws of torture. In this sense the traces of language we encounter here may be testimonies of trauma, with all the possible moments of psychic disintegration, confusion, and disassociation that such an experience implies.

But other testimony taken under torture is less broken. We see this in the case of the enigmatic figure of Lorenzo Davidico, tried for heresy in Rome in 1555–1557, for many of his own teachings, for necromancy, and for his close relations with Cardinal Giovanni Morone (Firpo, 1992; Marcatto, 1992). Lorenzo was tortured three times: on 9 June 1556, on 22 June 1557, and on 16 July 1557. His sessions were strikingly different from Banière's, as Lorenzo managed to be combative throughout each experience, frequently engaging his tormentors in debate immediately before and even during the torture session. Paradoxically Davidico seems to have been subjected to far more brutal torture than Banière – he was repeatedly placed on the rope for long stretches of time (as much as an hour) and subjected to painful drops (*squassi*) with the notary meticulously recording his scream and his discomfort. At one point he asked for a urinal; at another point he shat himself. And yet Lorenzo continued to protest his treatment. He told the inquisitors that they were wronging him, that they had no right to treat him this way. He even managed, on at least two occasions, to mount an argument about confession in the course of being tortured (Marcatto, 1992, 96, 170).

The outcome of the two trials could not have been more different. Banière was executed; Lorenzo managed to escape. But what is important here is how profoundly different the records of their testimony is. In the first case, the victim's voice appears to have been silenced; in the second case, we can still hear the victim, even if he was muffled. We are in the presence, that is, of a dialogue that is not entirely shaped by the inquisitor's questions, with the result that this tortured testimony at least opens up the possibility that we are hearing more than screams but also a voice, despite the pain to which Davidico was subjected. Here it is likely that a wide range of factors – from the health of the defendant to his personality – played a role in shaping his response to torture. Thus it is better not to approach the experience of torture with one theoretical perspective, such as Scarry's, in mind. A major goal in the study of tortured testimony must be an effort to associate the experience of pain in the torture chamber with contemporary cultural understandings of violence and pain; and we must be extremely careful not to assume that modern notions of the experience of torture – which we rightly see as traumatic today – can be read back into the late medieval and early modern periods. After all, pain and its cultural expression does have a history as does the range of human attitudes towards violence. And, thus far, historians know profoundly little about either of these matters (Morris, 1991; Cohen, 2000).

Tortured testimonies are, of course, a specific form of documentation within a larger archive of inquisitorial records. They present, in their extremes, some of the more pressing challenges facing historians eager to use the testimonies of witnesses and defendants in trials from the early modern period. But the documentary questions here are not in themselves especially unusual. Like the inquisitors we must look not merely to the words on the page but also to the intent behind the ways these words were recorded. In his celebrated book *The Historian's Craft*, Marc Bloch fittingly connected the study of the words historians encounter in documents with the question of testimony. "The vocabulary of documents," Bloch observed, "is, in its own fashion, nothing but a testimony – precious, without doubt, but, like all testimonies, imperfect and, therefore, subject to a critical approach. Each important term, each characteristic turn of phrase becomes a veritable element of knowledge, but only once it has been placed in its human context, put back in the usage of the time, of the milieu or of the author, and, above all, defended against the ever present danger of misinterpretation due to anachronism" (Bloch, 1952, 95–96). Surely, Bloch's words continue to resonate in the historian's quest to make sense of testimony from the past. Documents, after all, often contain not only traces of cultures and beliefs that their creators tried to destroy but also rich insights into the institutions and practices that conditioned their creation in the first place.

In this respect, tortured testimonies tell us about the judge and the institutions he represented and even, when we are lucky, about the heretic and the broader social and cultural world of which he was a part. These documents also reveal something about the history of the self in early modern Italy (Martin, 2004). For in moments of torture the inquisitors brought not only violence but also their knowledge of the hermeneutics of pain to bear upon the question of the interior life of the defendant, while, at the very same time, the defendant drew on all his resources – physical and spiritual – to preserve his very being. Paradoxically, under torture, selves could be both made (as in the case of Lorenzo Davidico) and unmade (as, perhaps, in the case of Claude Banière). The legacy of the inquisition in the making and unmaking of identities is, of course, itself a vast topic, but certainly we should in no way ignore the role of the violence of torture in the shaping of new notions of the self in the early modern world.

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Z MUČENJEM DO PRIČEVANJA

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POVZETEK

"Pričevanja mučencev" so še zlasti zapletena za sodobne raziskovalce, saj ne gre le za zapise govora, vsebujejo namreč tudi zapise krikov. Na podlagi metod iz intelektualne zgodovine in socialne antropologije članek raziskuje številne pravne in juridične priročnike iz šestnajstega in sedemnajstega stoletja, ki so oblikovali prakso rimske inkvizicije v Italiji v zgodnji moderni dobi. Članek izpostavlja tri izmed ključnih dejavnikov, ki so vplivali na način formuliranja pričevanj mučencev: (1) bila so potrebna kot del procesa ratifikacije, (2) služila so kot zagotovilo, da so sledili ustreznim pravnim postopkom; in (3) služila so kot namig o duševnem stanju tožene stranke. V nadaljevanju članek trdi, izhajajoč iz zadnje točke, da je potrebno besedila, ohranjena v pričevanjih mučencev, brati deloma upoštevajoč zgodnje moderne predpostavke o bolečini kot zunanji manifestaciji vesti. Članek poudarja raznoliko naravo zapisov pričevanj mučencev in s tem povezano dejstvo, da enega samega pristopa ne moremo posplošiti in uporabiti pri obravnavi vseh zapisov. Kot vsi dokumenti tudi pričevanja mučencev zahtevajo natančno analizo virov, vsaj kot izhodišče.

Ključne besede: inkvizicija, mučenje, pričevanje, notar, bolečina, travma

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