

# The Inquisition Birthed Our Justice System

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Author

[Dr. Jerry Bergman, PhD](#)

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If you attended public government schools like I did, you learned the Inquisition involved sadistic priests who brutally interrogated people accused of religious heresy. As the interrogation progressed, it was claimed, a ratchet mechanism was used to slowly increase the strain on the prisoner's shoulders, hips, knees, and elbows, causing excruciating pain. After victims were tortured, they were then burned at the stake for rejecting some minor doctrinal point. In short, this feared institution torched innocent people who disagreed with the Catholic Church, often on minor points of theology.

In fact, *this is a gross distortion of what really happened*. A major purpose of the Inquisition was actually to minimize governmental abuses by developing clear rules of evidence to reduce the capriciousness and personal animus then common in government judicial systems.

Before the Inquisition, established methods of confirming guilt included trial by ordeal by which the guilt or innocence of the accused was determined by subjecting them to a painful experience. Trial by boiling oil is one example. The accused parties were ordered to retrieve an item from a container of boiling oil. Those who refused were declared guilty. Those who acquiesced, if they suffered serious burns, were also deemed guilty. If their hand somehow remained unscathed, they were declared innocent. It is not surprising that this method found most of the accused were guilty. This method was based on the premise that God would help only the innocent by performing a miracle on their behalf. This practice dates as far back as the Code of

Hammurabi.

In contrast, the Inquisition's overriding purpose was to rehabilitate and help lawbreakers conform to society's rules. Abuses occurred, but they were often far less common than in the contemporary state judicial systems.

The Inquisition administrators correctly judged the courts to be fallible and inefficient. As stated in the official *Handbook for Inquisitors*, published in 1561, "Torture is not a certain means of discovering truth. Some weak men, at the slightest pain, will confess even to crimes they did not commit, and others, stronger and more stubborn, will bear the greatest torments even if they were guilty. Physical and moral strength is unequally distributed among men, which is why torture is a very uncertain means of prying the truth from the accused."

The focus of the Inquisition was to determine guilt by researching the crime to determine evidence of guilt by solid evidence. Often this required interviewing eyewitnesses or other persons who had some knowledge of the crime. The word 'inquisition' refers to "a searching examination" from the Old French derived from the Latin word '*inquisition*' meaning "examination," from the verb "*inquirere*." Thus, the British justice system today is called an "inquiry." The Western justice system is based firmly on the Inquisition. As is true of our modern justice system today, some wrongful convictions occurred.

Torture was mostly carried out by the state authorities, not the church. The Inquisition worked to *separate* church and state in order to *reduce* the abuses caused by the state. The popular image of the church brutally torturing and executing millions of people is false. Most people accused of heresy by the Inquisition were either acquitted, or had their sentences suspended. The underlying assumption of the Inquisition was that, like lost sheep, heretics had simply strayed and needed help to come back into the fold of the church. Those found guilty of grave error were allowed to confess their sin, do penance, and be restored to the Body of Christ. Saying a certain number of Hail Marys often was the only punishment.

The worst Inquisition branch by far was in Spain where the state authorities believed that the church was far too lenient, so it took over its administration. For this reason, in Spain the Inquisition became an instrument of royal policy that remained subject to the crown. Although how it operated in Spain clearly offended the church's sense

of justice, because it was a state instrument it was largely outside of the Pope's power to control. Even this worst example, Jewish historian Henry Kamen estimated of all of the Spanish tribunals up to about the year A.D. 1530, it is unlikely that no more than two thousand people were executed by the Inquisition. One study found that only 1.8 percent of the 44,674 accused persons were actually executed. And many, if not most, were executed for crimes that would be considered capital offenses today, such as rape and murder.

Professor Kamen argued that even the Spanish branch of the Inquisition was mostly a means to scare the society's enemies, and was not nearly as powerful, or inhumane, as its critics often alleged. He also documented that exaggerations of the size and extent of the Inquisition reported in the media have multiplied over the past 500 years.

When the Inquisition was founded in 1231, almost all Europeans were at least cultural Catholics until the Reformation. The church was unable to strictly separate itself from the state then because church and state were united by secular law. The church/state separation idea is very much a modern notion, likely first articulated by John Calvin, the founder of the Presbyterian Church.

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