

Hispanic Conciliarism and the Imperial Politics of Reform on the Eve of the Council of Trent

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This article examines the treatise on the general council (the “Tractado”) published in 1536 by a Spanish jurist serving in the imperial administration in the Kingdom of Naples. It analyzes the content and the context in which it was conceived and argues that the treatise legitimated Charles V’s call for a general council in the political context of 1535–36, which meant supporting the political aims of the Ghibelline faction of Charles V’s court in Naples. The analysis of conciliarist doctrine in this treatise sheds new light on the relations between church and Crown in the context of the imperial policy of Charles V.

INTRODUCTION

ACCORDING TO TWENTIETH-CENTURY historiography, Spain played a crucial role in shaping the Counter-Reformation: Emperor Charles V supported Rome against the Lutheran Reformation and the Spanish bishops led the Council of Trent.¹ In recent decades, early modern scholars have begun to revise this historical interpretation. Scholars of political history have highlighted the diplomatic and military activity that Charles V developed to limit the authority of the pope in temporal matters.² Historians of political thought have emphasized that Spanish political thought questioned the primacy of the pope within the church.³ However, the connections between Spanish political thought and Charles V’s policies regarding the papacy remain largely unexplored, thus overlooking the fact that the same Spanish jurists and theologians who produced this political thought served in different capacities in the imperial administration.

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¹ Fernández Terricabras.

² Headley, 1975; Levin; Bonora.

³ Horst.

Alfonso Álvarez Guerrero (ca. 1502–76) was a Spanish jurist who spent his whole professional career serving the imperial administration in the Kingdom of Naples. He is an example of a new social class made up of *letrados*, men trained in the law who reached high administrative positions thanks to their juridical training and writing.⁴ He used his legal training to take care of urgent and immediate problems of imperial policy, such as reforming the justice system in the Kingdom of Naples, justifying war against Francis I, and creating the procedures for convening a general council. The political purpose of such treatises, which was obvious to the readership for whom they were intended, is not always apparent to historians. The accumulation of direct quotations from canon law and the silence surrounding contemporary figures and events suggests that these works were exercises in academic scholarship with no implications for contemporary politics. This is the case of the first juridical book published by Álvarez Guerrero, the *Tractado de la forma que se ha de tener en la celebración del general concilio y acerca de la reformación de la Iglesia* (Treatise on the manner in which a general council is to be held and about the Reformation of the church), published in April 1536 by a Valencian printing house specializing in legal texts. The first edition of the treatise, other than being dedicated to Charles V, makes no reference to the historical context of the time. Nonetheless, it reveals its political function when the courtly and diplomatic context for which it was conceived is taken into account.

In the following pages, I shall examine the professional career of Alfonso Álvarez Guerrero, present the conciliarist doctrine in his *Tractado*, and set out the political and diplomatic circumstances in which the work was conceived and circulated and the reasons why a work with these characteristics might have been welcomed, both at the court of the emperor and among some Spanish clergymen. By explaining the aims of this treatise and its reception, I shall demonstrate that this legal literature should be included in studies on imperial government and politics.

ÁLVAREZ GUERRERO'S LIFE AND WORKS

Even though little is known about his life, it is possible to reconstruct Álvarez Guerrero's rise through the imperial court through the posts to which he was appointed and the context of his writings.⁵ He was born in Toledo, probably

⁴ On the new social class of *letrados*, see Kagan. For the relations between jurists and politics, see, recently, J. Black; Armstrong and Kirshner.

⁵ The first person to indicate the need to study the work of Álvarez Guerrero was Asensio, 97. See also Kamen, 207. Villacañas, 270–303, and Benlloch Poveda, 2013, consider Álvarez

in 1502.⁶ He studied civil and canon law, although I have been unable to determine at which university.⁷ During the second half of 1519, he was in Barcelona, where Charles V was at the time. It was, in fact, in Barcelona, in June 1519, that news arrived that Charles had been elected future king of the Romans by the prince-electors. This was the context in which Álvarez Guerrero wrote his first book, which was made up of two long poems: *Las Doscientas del Castillo de la Fama* (The two hundred of the castle of fame) and *Las Cincuenta del Laberinto contra Fortuna* (The fifty of the labyrinth against fortune). These two poems are imitations of the *Laberinto de Fortuna* (Labyrinth of fortune, 1444) and the *Coronación al Marqués de Santillana* (Crowning of the Marquis of Santillana, 1438), respectively, both by the poet Juan de Mena (1411–56), who continued to enjoy extraordinary prestige in Castile. The book closes with a prose treatise that includes brief biographies of all the emperors of the Holy Roman Empire from Otto the Great (912–73) until Charles himself. This book must have served as a sort of letter of introduction to the court, since it was printed a matter of weeks before Charles left Barcelona, on 25 January 1520.⁸ At a time when Castile was rejecting the imperial election and revolts in the kingdoms of Valencia and Castile were looming, a work like *Las Doscientas del Castillo de la Fama*, which placed the dignity of the emperor and of the king of Castile, Aragon, and Navarre, on an equal footing, would have been welcomed at court.⁹

Álvarez Guerrero attended the coronation of the emperor in Bologna, in February 1530. Two weeks later, in the same city, he published a second book of poetry, which also comprises two extensive works in verse form: the *Palacio de la Fama* (Palace of fame) and the *Historia de las Guerras de Italia* (History of the wars in Italy). The work was commissioned directly by Alfonso d'Avalos (1502–46), the highest-ranking representative of the Spanish nobility in Italy.¹⁰ The narration of part of the Italian Wars included in this volume—from the

Guerrero and the *Tractado*, but do not explore the religious and political implications of conciliarism in the work and are unaware of the first edition of the text.

⁶ Benlloch Poveda, 1984, 352–55, extracted these data from the file on the appointment of Álvarez Guerrero as bishop of Monopoli (Archivio Segreto Vaticano, Acta Miscellanea 96, fol. 112).

⁷ He is introduced on the title page of his literary works as “licentiate” in 1520 and as “Doctor” after 1530.

⁸ Álvarez Guerrero, 1520, F7^r and G3^r.

⁹ Villacañas, 275–76, suggests the possibility that the book was published in Valencia, as a response to the campaign against Charles V that those implicated in the Revolt of the Brotherhoods (Germanías) were waging against him.

¹⁰ Álvarez Guerrero, 1530, ¶7^r–8^r.

siege of Marseilles by the imperial troops in 1524 to the Peace of Cambrai in 1529—is a panegyric to the generals of the imperial side, as well as to d'Avalos himself, and presents a point of view on the Roman Curia that anticipates the content of his treatise on the general council.

The d'Avalos lineage was one of the most influential and extensive in the Kingdom of Naples, where the family had been settled since the time of Alphonse the Magnanimous (1396–1458). This link with Alfonso d'Avalos may explain Álvarez Guerrero's involvement—although it is not known in what capacity—in “the government of the provinces of Otranto and Bari” between 1530 and 1532.¹¹ The governor general of those provinces between 1519 and 1532 was Alfonso Castriota (d. 1544), one of the Neapolitan nobles who supported the policies of the viceroy of Naples, Pedro de Toledo, after the latter had been appointed to the position in September 1532.¹² It is possible that Castriota recommended Álvarez Guerrero to the viceroy, although this is a hypothesis that I have been unable to corroborate. Indeed, I have not been able to gather any information about any possible post held by Álvarez Guerrero in the viceregal administration between 1533 and 1539, the year when he was appointed president for life of the Camera di Sommara, the main organ of administrative and fiscal control in the Kingdom of Naples.¹³ However, a post of such responsibility would not have been awarded to someone who was unfamiliar with the political and financial situation in the kingdom, so that it is quite plausible that Álvarez Guerrero would have occupied a post of some responsibility in the years immediately before he was appointed. Furthermore, the content of his first juridical treatises, published in the mid-1530s, also places the author in the political context of Naples.

His first treatise was the *Tractado* on the general council and the reform of the church. The first edition was published in Valencia on the presses of Francisco Díaz Romano, a well-known printer of legal texts, on 29 April 1536.¹⁴ A reissue of the first edition came off the same presses on 16 December 1536.¹⁵ A third

¹¹ Archivo General de Simancas (hereafter AGS), E, Leg. 1050, Num. 132.

¹² For Alfonso Castriota, see Hernando Sánchez, 1994, 361–62.

¹³ Martínez Ferrando, 15. The Camera had between three and six presidents.

¹⁴ The only known copy of this first edition is the one preserved in the British Library, G.11737, which comes originally from the Bibliotheca Grenvilliana: Payne and Foss, 1:289. This is the same copy used by Luis de Usóz to prepare the edition included in volume 12 of the *Reformistas Antiguos Españoles* (1857) collection.

¹⁵ This edition has exactly the same number of lines and words on each page, with minor changes to abbreviations and words, which can be attributed to the typesetter, as well as a change of format (from octavo to quarto).

edition, with significant stylistic changes, some additions, and a lengthy new chapter on imperial and papal legal powers, was published in the printing house of Antonio Bellono in Genoa four months later, on 30 April 1537. It is recorded that Álvarez Guerrero set off from Rome for Northern Italy in spring 1536, so that it is possible that he was still part of the court retinue at the time when Charles V was staying in Genoa between September and November 1536. The publication of the treatise in this city, which may have appeared later than the author envisaged, has to be connected to the emperor's stay there. Notwithstanding, three editions of a treatise on ecclesiology in a single year suggest that the work aroused considerable interest.

The second treatise was the *Liber Aureus Perutilis ac Necessarius de Administratione et Executione Iustitiae* (Excellent, very useful and necessary book on the administration and execution of justice). It was also printed in Valencia by Francisco Díaz Romano, dated 1 September 1536, and dedicated to Emperor Charles V.¹⁶ This was a treatise on procedural law, both civil and criminal, with a first chapter devoted to setting out the universal jurisdiction of the emperor along Ghibelline lines. The work must have been written in the context of the reform of justice undertaken in the Kingdom of Naples between 1532 and 1536 by Pedro de Toledo. The judicial system in the cities and feudal domains of the barons alike was marked by corruption, and the viceroy's reforms set out to centralize the administration of justice and guarantee its efficiency by reforming the courts and disciplinary procedures.¹⁷ Álvarez Guerrero's text takes on full meaning in this context of reform and it is possible that the viceroy himself commissioned its composition.

Álvarez Guerrero must have soon shown that he had little aptitude for the basically administrative work that the post of president of the Camera involved. In August 1541, the deputy of the Camera, Bartolomeo Camerario (1497–1564), asked Charles V to dismiss Álvarez Guerrero from the post because he did not possess the requisite qualities for the office and begged Charles to find an ecclesiastical benefice for Álvarez Guerrero.¹⁸ In January 1542, Álvarez Guerrero himself wrote to Francisco de los Cobos (ca. 1477–1547) applying for the vacant bishopric of Caserta: "I beg of you to grant me the boon of recommending me to His Majesty so that he will command that I be proposed for this church with which I may, as I say, be better able to serve and pray to God for

¹⁶ For Díaz Romano, who was active in Valencia between approximately 1531 and 1541, see Serrano y Morales, 106–15.

¹⁷ Cernigliaro, 1:275–283; Hernando Sánchez, 1994, 228–41.

¹⁸ See Coniglio, 2:451.

Your Lordship's most illustrious person."¹⁹ His petitions went unheeded, which indicates that he did not have sufficient influence to obtain the ecclesiastical benefice that he aspired to, but does nonetheless confirm that Álvarez Guerrero was trusted by the viceroy since he maintained him in the position after Camerario, who had been Álvarez Guerrero's immediate superior, fell from grace in 1547.²⁰ That the viceroy sponsored the next two juridical works by the author, which were printed in the Neapolitan printing house of Ambrosio Manzaneda, situated within the Castel Nuovo itself, confirms that his position was one of influence, and also suggests that Álvarez Guerrero expected some kind of remuneration for these treatises—both dedicated to Charles V—which probably did not materialize.

The first of the two treatises printed in the Castel Nuovo is the *Aureus et Singularis Tractatus de Bello Iusto et Iniusto* (Excellent and unique treatise on the just and unjust war). The edition is dated October 1543, although there is a manuscript copy dated 1542.²¹ The French monarch had declared war on the emperor on 12 July 1542. The *casus belli* was the assassination of the French ambassador, of Spanish origin, Antonio Rincón, on 4 July 1541, near the city of Pavia. During the following months, various attacks were perpetrated against imperial interests: in the north against Luxemburg, and from Montpellier, in the south, against Perpignan. Álvarez Guerrero's treatise was written in this context to justify Charles V declaring war on the French king, which finally occurred on 22 June 1543.²² The justification occupies only the last chapter and the rest of the treatise is an exposition of the just-war theory. The doctrine presented in the work is the one that was widely circulated at the beginning of the sixteenth century in encyclopedias such as the *Summa Sylvestrina* (1516) by Silvestro Mazzolini da Prierio (ca. 1456–1527).²³ The

¹⁹ AGS, E, Leg. 1034, Num. 61: "suplico me haga merced de favorecerme para que Su Majestad me mande presentar a esta iglesia con la cual pueda, como digo, mejor servir y rogar a Dios por la muy ilustre persona de vuestra señoría" (I have modernized the spelling of Álvarez Guerrero's texts when orthographic changes do not imply phonetic changes). The bishopric of Caserta had in fact already been granted to Giralamo Veralló on 14 November 1541.

²⁰ For Camerario and his confrontation with the viceroy, see Hernando Sánchez, 1994, 217–22.

²¹ Benlloch Poveda, 2013, 249n76, indicates the existence of a manuscript version of the text, dated 1542, in the Biblioteca Apostolica Vaticana, Latinos, 5200.

²² Knecht, 302–04, 362–64; Kohler, 270–72, 295–310.

²³ Álvarez Guerrero's *Aureus et Singularis Tractatus* is occasionally cited by historians of international law at the end of the nineteenth century and the beginning of the twentieth in the context of the development of the discipline of public international law, when precedents of the treatise of Hugo Grotius were sought in sixteenth-century Spanish Scholasticism. See Rivier, 36.

second treatise, *Tractatus de Modo et Ordine Generalis Concilii Celebrandi et de Reformatione Ecclesiae Dei* (Treatise on the manner and order in which a general council should be held and on the reform of the church), was a Latin version of the *Tractado* on the general council published in the thirties. This is a complete reworking of the text of the first edition and more than twice the length of the original—increasing from 60 to 140 pages—and includes six new chapters on the reform of the church.²⁴

The appeals of the author to be granted an ecclesiastical benefice that would release him from his post as president went unheeded. He was still appearing in the official records as president of the Camera in 1572, just four years before he died.²⁵ It seems that the publication of his most ambitious work, the *Thesaurus Christianae Religionis et Speculum Sacrorum Summorum Pontificum Imperatorum ac Regum et Sanctissimorum Episcoporum* (Treasury of the Christian religion and mirror of the sacred supreme pontiffs, emperors, kings, and most holy bishops), counted for nothing; the first edition appeared in 1559 in the Venetian printing house of Comin da Trino di Monferrato (ca. 1510–ca. 1573). This encyclopedic work was dedicated to Philip II (1527–98) and included a dedication in the preliminaries to his wife, Queen Mary I of England (1516–58). In the *Thesaurus*, Álvarez Guerrero reissued some chapters from his treatises on procedural law, the law of war, and on the council and church reform in his Latin version—although omitting the conciliarist component in the original text—and added new chapters, principally on matters of canon law. This volume was reissued twice more with additions during the author's lifetime.²⁶

²⁴ There is another edition of this Latin version, titled *Incipit Aureus et Singularis Tractatus de Modo et Ordine Generalis Concilii Celebrandi ac de Ecclesia Dei in Priorem Faciem Renovanda* (Beginning of the excellent and unique treatise on the manner and order in which a general council should be held and on the reform of the church and the restoration of the church of God to its earliest aspect), with no date or place of publication. The only copy that I have located is kept in the Bayerische Staatsbibliothek, Conc.c. 39 (accessible in Google Books). This edition is a text halfway between the Spanish version of 1537 and the 1545 Latin version. Of the six chapters added to the 1545 edition, only three are found here. The text of the remaining chapters presents some, but not all of the 1545 additions. The name of the author and his position as president of the Camera di Sommaria appear on the title page, so that the text must have been published after November 1539.

²⁵ The 1572 file of his appointment as bishop of Monopoli records him as “presidens Regie camere sumarie Neapolitanae”; Benlloch Poveda, 1984, 353n51. See also Coniglio, 2:725.

²⁶ The second edition appeared in Florence in 1563, printed by Lorenzo Torrentino (1499–1563), and added twelve chapters to the seventy-one in the first edition. The third edition, with eight new chapters, was published in Naples on the presses of Orazio Salviano in 1570. Various reprints of the first Florentine edition were published posthumously in various printing houses in Cologne (1581, 1586, 1607, 1608).

From Gaeta, he wrote two brief memorials to Philip II, in September and December 1560, the first on the need to fortify the city of Brindisi against the Turks—recalling the visits of Fernando de Alarcón (1466–1540) to the area in 1532²⁷—and the second about the general council and reform of the church.²⁸ Another report of a historical kind about the Kingdom of Naples and the Duchy of Milan, also addressed to Philip II, is probably from this time.²⁹ In 1572, he was finally appointed bishop of Monopoli. According to the correspondence of the papal nuncio in Naples, he died in June 1576.³⁰

A CONCILIARIST TREATISE

Álvarez Guerrero's *Tractado* on the general council expressed many of the same concerns as other literature at the time that was demanding a general council to correct the abuses observed in the church and to put an end to the Lutheran Reformation. Álvarez Guerrero calls for bishops to live in their bishoprics, to end pluralism in benefices and the dispensations that legitimated the practice, and for the best-qualified candidates to be selected for vacant posts. The same ideas can be found in the *Consilium de Emendanda Ecclesia* (Report on the reform of the church), produced in 1537 by a committee presided over by Cardinal Gaspar Contarini (1483–1543) and commissioned by Paul III (1468–1549).³¹ Álvarez Guerrero's treatise, however, has one characteristic that distinguishes it from that *Consilium* and other similar texts: his ecclesiology is based on the *Haec Sancta* decree, the document that crystallized conciliarist doctrine, promulgated at the fifth session of the Council of Constance (1415). For Álvarez Guerrero, the council represents "the Catholic Church militant" and it "has power immediately from Christ" and is above the pope "in those matters which pertain to the faith," the eradication of the "schism" and the "general reform" of the church "in head and members."³² He makes no reference to the Fifth Lateran Council (1512–17) or to the *Pastor Aeternus* bull (1517), which abrogated the Pragmatic Sanction of Bourges (1438) and reasserted the supremacy of the pope over the council: "For it is clearly established that only the contemporary Roman pontiff, as holding authority over all councils, has the full right

²⁷ AGS, E, Leg. 1050, Num. 132. For Alarcón's inspection of the coastal fortifications in the region of Apulia, see Suárez de Alarcón, 406–08.

²⁸ AGS, E, Leg. 1050, Num. 143; the opinion was published by Cereceda.

²⁹ Paz y Meliá, 491.

³⁰ Villani, 1:385; Benlloch Poveda, 1984, 354n57.

³¹ See Olin, 188–91; for the *Consilium*, Gleason, 140–50.

³² Alberigo and Tanner, 1:409.

and power to summon, transfer and dissolve councils.”³³ He does, however, state that the *Haec Sancta* decree was promulgated by a legitimate general council approved by Pope Martin V (1369–1431) and ratified at the Council of Basel (1431–49), so that its validity as dogma was indisputable.³⁴ The work, in this respect, is conceived as an invitation to Charles V to conclude the project of reform *in capite et membris* (in head and members) initiated at Constance and interrupted at Basel: “the reform was supposed to be carried out at the Council of Constance and was not because of business arising, but they gave the order and agreed that the reform would be carried out at the first council.” In the third edition of the treatise, the author adds: “and it remains to be done to this day.”³⁵

The first edition of Álvarez Guerrero’s treatise comprises fifteen chapters. The work is concerned with three general questions: the convening of the general council (chapters 1–5), the objectives of the council and relations between the council and the pope (chapters 6–9), and, finally, aspects of the administration of the church that should be reformed by a council (chapters 10–15). I shall summarize the main ideas of the *Tractado*, citing the sources adduced by

³³ *Ibid.*, 1:642. Oakley, 1969, 91; Oakley, 1972, 461–63; Oakley, 2003, 57, maintains that the council never explicitly condemned the *Haec Sancta* decree and that the bull *Pastor Aeternus* did not abrogate it because the superiority of the pope over the council was only proposed for a situation in which there was just one pope. Oakley’s interpretation may be correct in theological terms, although the text can unquestionably be read as a refutation of the conciliarism of Constance and Basel, as Minnich, 1984, 130, 154, 169–70, has pointed out; for the Lutheran interpretation, see Headley 1973, 61–66. Whatever the case, the scenario posed by Álvarez Guerrero is the same as the one that the bull condemned, so that the conception of his *Tractado* was undoubtedly against the current legislation. As a doctor in canon law, Álvarez Guerrero had to be abreast of the laws issued by the Lateran Council, which started to arrive in the universities as a unitary book from 1521, when the proceedings of the council prepared by Cardinal Antonio del Monte (1461–1533) were published.

³⁴ The two authors he most draws on to argue in favor of his views of the council and church reform are two well-known conciliarists, Francesco Zabarella (1360–1417) and Nicolò de’ Tudeschi (1386–1445). There is no reference to contemporary theologians or jurists, such as Thomas de Vio, Jacques Almain, or John Mair, nor to more recent treatises such as the one by Domenico Giacobazzi (1444–1528), although this does not mean that he did not know them. Noteworthy among the authorities he handles are Guillaume Durand the Younger (ca. 1266–1330), Antonio Roselli (1381–1466), Piero da Monte (1400–57), Ludovico Pontano (1409–39), and Felino Maria Sandeo (1444–1503).

³⁵ Álvarez Guerrero, 1536, A4^r: “la cual reformación se había de hacer en el Concilio Constanciense y no se hizo por muchos negocios que ocurrieron; mas dieron orden y concierto que en el primero concilio se hiciese la reformación”; Álvarez Guerrero, 1537, A3^r: “y hasta el día de hoy está por hacer.”

the author where they are significant for identifying the doctrinal tradition of conciliarism.

The councils are the instrument used by the church to enact reform, end heresies or schisms, and ensure that the decrees and canons of previous councils have been fulfilled.³⁶ It is the pope who should normally call a general council.³⁷ Originally, the emperors “assembled and authorized the general council,” although later “decrees were issued in which the pontiffs wanted nobody except themselves or their legates with special power to have authority to convene the council.”³⁸ A pope, however, could be “a heretic, schismatic or incorrigible” and refuse to convene the council, even when the emperor requested it.³⁹ In such cases, the authority to convene it would pass into the hands of the College of Cardinals.⁴⁰ If they failed to convene one, power would pass directly to the emperor since the emperor, as “the chief prince of the secular princes” and “advocate of the universal church,” may “convene a general council if there is negligence in the church. This is stated by the Cardinal Zabarella . . . and also by Felino Sandeo.” If the pope resists, the emperor “could wage war on the person of the pope. This is stated by Niccolò de’ Tudeschi.”⁴¹ In this respect, if the pope “were to order that a council not be convened” when it is necessary to convene one, “he is not to be obeyed, because Innocent IV stated that when evils and harm arise from the pope’s commandment, and when that commandment causes scandal in the church, he is not to be obeyed, and those who do obey him sin.”⁴²

³⁶ Álvarez Guerrero, 1536, A3^r, A4^r, B1^v.

³⁷ Ibid., A4^v.

³⁸ Ibid., B1: “los emperadores juntaban y auctorizaban el concilio general”; “después se hicieron los decretos en que los pontífices quisieron que ninguno tuviese autoridad para congregar concilio sino ellos o su legado con poder especial suyo.”

³⁹ Ibid., B2: “hereje o scismático o incorrigible.”

⁴⁰ Ibid., B3^r.

⁴¹ Ibid., B1^v: “principal príncipe de los príncipes del siglo”; “abogado de la universal Iglesia”; ibid., B2: “el emperador puede convocar concilio general habiendo negligencia en la Iglesia. Así lo dice el Cardenal en el c. *Licet. De electio* [X 1.6.6.] . . . y también lo dice el Felino en el c. *Querelam. De iure iurandi* [X 2.24.10]”; “el emperador podría mover guerra contra la persona del papa. Así lo dice el Abad [Niccolò de’ Tudeschi] en el c. *Sicut. De iure iurandi* [X 2.24.13].” The legal references to the canons cited by Álvarez Guerrero have been added in square brackets. Decretal collections are cited by Latin name, book, and title (subject heading). Álvarez Guerrero cites only from the *Decretals* of Gregory IX, which are identified by the initial X: e.g., [X 1.6.6]. The distinctions and chapters of Gratian’s *Decretum* are cited as, e.g., [D. 1 c. 1]. See Brundage, 190–205.

⁴² Álvarez Guerrero, 1536, B3^r: “y si el papa . . . mandase que no se congregase concilio, no le han de obedecer, porque dijo el Inocencio [IV] en el c. *Inquisitioni. De sententia excommunicationis* [X 5.39.45]: cuando vienen males y daños del mandamiento del papa, y cuando del tal man-

The council represents the whole of the church and receives its power directly from Christ.⁴³ As Saint Jerome said, “the world is greater than the city”—in other words, the church is composed of all true believers and therefore the pope is nothing without the council.⁴⁴ When Christ said “upon this rock I will build my Church” (Matthew 16:18), by “church” he meant not only Peter but all the apostles, who were the representatives of the church at that time.⁴⁵ The successors of the apostles are the bishops and they therefore represent the universal church.⁴⁶ In this respect, “if neither the pope nor his legate were present at the council because the council was convened due to the failure of the pope, . . . the power and authority to judge, determine and ordain would be with the bishops who went to the council. . . . The Doctors of Law conclude that even if only one bishop attended, complete authority and power to ordain and judge would rest with him.”⁴⁷ As promulgated at the Council of Constance, the council is above the pope in those matters that pertain to the faith, the eradication of schisms, and the general reform of the church in both head and members.⁴⁸ In these three matters, “the ruling and judgment of the council as the judgment of a superior must be preferred . . . over the judgment of the pope. So says the Abbott in his most elegant treatise on the Council of Basel.”⁴⁹ The pope may err, but “the universal Church cannot err . . . in faith or articles of faith,” which explains why the council may “condemn the pope for heresy,” as was confirmed in the case of Pope Anastasius (d. 498) and in the glosses to the canon *Si Papa*.⁵⁰ Finally, concerning the fre-

damiento se escandaliza la Iglesia, no le han de obedecer y pecan los que le obedecen.” The same idea is in *ibid.*, C4^r.

⁴³ *Ibid.*, C4^v–D1^r. See also E2^r.

⁴⁴ *Ibid.*, C3^v: “el mundo es mayor que la ciudad [D. 93 c. 24].” For the different interpretations of this quotation by Saint Jerome, see Tierney, 1955, 39–46; Izbicki, 1981, 76–77.

⁴⁵ Álvarez Guerrero, 1536, D1^v.

⁴⁶ *Ibid.*, H1^r.

⁴⁷ *Ibid.*, C3^r: “y si el papa ni su legado no estuviesen en el concilio porque el concilio se hobiese congregado por la negligencia del papa, . . . el poder y auctoridad de juzgar y determinar y statuir quedaría acerca de los obispos que viniesen al concilio. . . . los doctores [Niccolò de’ Tudeschi], en el capítulo *Gratum. De electione* [in reality, *De postulatione praelatorum*] [X 1.5.2] concluyen que aunque un solo obispo viniese, en aquél quedaría toda la auctoridad y poder para statuir y juzgar.”

⁴⁸ *Ibid.*, C4^v.

⁴⁹ *Ibid.*: “de manera que la sentencia y juicio del concilio, como juicio de superior, se ha de preferir . . . al juicio del papa. Así lo dice el Abad en su elegantísimo tractado del Concilio de Basilea, en la primera dubda.”

⁵⁰ *Ibid.*: “la Iglesia universal no puede errar . . . en la fe o artículos de la fe”; *ibid.*, C4^r: “el concilio puede condenar al papa de herejía, como lo dicen y se nota en el capítulo *Si papa*, quadragésima dist. [D. 40 c. 6].”

quency of the councils, the popes were not respecting the *Frequens* decree promulgated at the thirty-ninth session (1417) of the Council of Constance, according to which councils had to be convened every ten years, because holding them was “the only way that the true reformation of the Christian religion could be comfortably carried out.”⁵¹

The human lineage is governed by two laws: natural law found in the Decalogue and the Gospels, and positive law.⁵² The canons and decrees of the councils would be examples of positive law. Nonetheless, “they were ordained through the intervention of the grace of the Holy Spirit, because the general council receives power *immediate a Christo* [directly from Christ] . . . which is why the pope, kings and emperor should respect all matters contained and established in the laws and approved in councils,” just as “the law of the Gospel” is respected.⁵³ The pope has fullest authority and is “above the council” only in “matters of positive law,” as stated by Niccolò de’ Tudeschi, although this power does not permit him to “dispense without cause,” because otherwise “through such dispensation, the law is violated and public interest stricken”; although the pope is “above the law,” he is “not above the law of God.”⁵⁴ “The reformation of the Christian religion” occurs so that “the pontiff, as the head of the building, will observe and have reverence for the decrees and statutes of the Fathers of the Church, for they were established and ordained with the universal Church being congregated together in council.”⁵⁵ This is the only

⁵¹ Ibid., A3^r: “la verdadera reformati6n de la religi6n cristiana no se puede c6modamente hacer sino congregando el concilio general.”

⁵² Ibid., D4^v, referring to D. 1 c. 1.

⁵³ Ibid., E2^r: “fueron ordenados interviniendo la gracia del Esp3ritu Santo, porque el concilio general tiene el poder *immediate a Christo*”; *ibid.*, D4^v: “por tanto es necesario que el papa y los pr3ncipes y el emperador . . . hayan de observar lo contenido en la ley evang3lica y todas las cosas contenidas y establecidas en los derechos y aprobadas en los concilios” (see also F4^{r-v}). For the equating of “conciliar law with divine law,” see Fasolt, 139–41, concerning Guillaume Durand, whom 3lvarez Guerrero paraphrases in these pages without quoting him. This is a “purely rhetorical” argument, as Fasolt points out, because the laws of the council could not become divine law. As I point out below, 3lvarez Guerrero recognizes the possibility of the pope modifying certain laws issuing from a council if there was just cause to do so.

⁵⁴ 3lvarez Guerrero, 1536, C3^r: “el Abad . . . dice en el c. *Significasti. De electione [et electi potestate]* [X 1.6.4], . . . que en las cosas que son de derecho positivo, . . . el papa es sobre el concilio”; *ibid.*, E2^r: “no podr3 dispensar sin causa . . . porque por la tal dispensaci6n el derecho es vulnerado y muy damnificado” (same idea in E3^r); *ibid.*, E1^r: “aunque el papa sea sobre la ley, no es sobre la ley de Dios.”

⁵⁵ Ibid., E2^r: “y tambi3n cumple a la reformati6n de la religi6n cristiana que el pont3fice, como principal cabeza de la f3brica, observe y tenga en veneraci6n los decretos y estatutos de

way to put an end to pluralism in ecclesiastical benefices, clergy who do not reside in them, bribery in processing papal dispensations and exemptions, papal nepotism, papal appropriation of episcopal property and revenues as sees fall vacant, and the absence of meritocracy in assigning posts.⁵⁶

The meaning and scope of the *Haec Sancta* decree has been comprehensively debated, particularly after Paul de Vooght and Hans Küng asserted its validity as dogma during the years of the Vatican II council.⁵⁷ Some historians, such as Joseph Gill, question the validity of the decree, because it was never explicitly approved by any pope.⁵⁸ For other historians, such as Hubert Jedin or Walter Brandmüller, it was basically an emergency measure to resolve the extraordinary situation of having three candidates—Gregory XII (1326–1417), John XXIII (ca. 1370–1419), and Benedict XIII (1328–1423)—in contention for the papal throne.⁵⁹ This is an interpretation that Charles V himself must have heard in 1531 during a meeting with the papal legate Uberto da Gambara (1489–1549), in which he would have been told that the Lutherans had interpreted the decree to suit their own interests by not taking into account that there was, at the time, not one but “three who were calling themselves the pope.”⁶⁰ For historians like Francis Oakley, however, *Haec Sancta* was a decree promulgated “for any legitimately assembled council in the future,” where what was being proclaimed was “the attribution to the general council—even one acting apart from the pope—of a jurisdictional authority in certain crucial matters superior to that possessed by the pope alone.”⁶¹ The content of the *Haec Sancta* decree was unequivocally interpreted in these terms in the fifteenth century, which was the reason why those who defended the papal monarchy, starting with Juan de Torquemada (1388–1468), tried their utmost to question its legal and dogmatic validity.⁶² Given this context, it is no coincidence that Álvarez

los santos padres, pues fueron statuidos y ordenados estando en concilio congregada y junta la universal Iglesia.”

⁵⁶ These are topics analyzed transversally in the last five chapters of the *Tractado*: *ibid.*, F2^r–H3^v.

⁵⁷ De Vooght; Küng, 268–319; Oakley, 1969, 105–11; Oakley, 2003, 83–99, 257–60.

⁵⁸ Gill.

⁵⁹ Brandmüller, 1:237–59; Jedin, 1963.

⁶⁰ *Concilium Tridentinum* (hereafter *CT*), 4:liii, in Girolamo Aleandro’s instructions for Uberto da Gambara’s legation to Charles V, in Rome, dated 19 December 1530. The instruction aimed to dissuade Charles V from the idea of convening a council.

⁶¹ Oakley, 2003, 99.

⁶² According to Torquemada, the pope elected at the Council of Constance, Martin V, only approved the decrees adopted *conciliariter*, which implied that the *Haec Sancta* decree would not have been ratified by the new pope. See Izbicki, 1988, 11, who studied the extraordinary manner in which this argument managed to prosper.

Guerrero insistently reminds his readers of the validity of the decree as an article of faith: “this opinion was approved at the Council of Constance and the authority of the Council of Basel also intervened. Hence, trying to say the opposite would be tantamount to saying that everyone was a heretic and that the council erred on matters of faith, which must not be admitted. And this was determined in the fourth session of the Council at Constance,⁶³ and this decree was approved at the eighteenth session of the Council of Basel.”⁶⁴

The *Frequens* decree, on the other hand, appealed to the need to convene a general council “every ten years for ever,”⁶⁵ which can be interpreted as “an attempt to translate into disciplinary regulation the conviction which underlay *Haec Sancta*.”⁶⁶ The text did not necessarily imply a conciliarist position, but it did favor periodic control of the pope’s action of governance by the council, a possibility that was clearly attractive to the rulers, as can be observed in various of the documents produced in Castile in the months previous to the beginning of the Lateran Council; all these texts coincide point for point with Álvarez Guerrero’s diagnosis of the practices that had to be eradicated from the church.⁶⁷

Conciliarist doctrine left a deep impression on European ecclesiology and political thought. Most studies have focused on Northern European thinkers

⁶³ The decree *Haec Sancta* had two versions, the first in the fourth session (March 30) and the definitive one in the fifth (April 6). In the two editions of the proceedings of the council, prepared by Jacques Merlin—Paris, 1524, CX–CXI; Cologne, 1530, XCV—in the fourth session, the council was above the pope as regards the schism and the reform of the church, and questions pertaining to the faith are not included, although they do appear in the fifth session. Álvarez Guerrero, who probably consulted one of the Merlin editions (see Álvarez Guerrero, 1536, A3’), cites from the text approved in the fifth, not the fourth session. The author is also mistaken about the year the Council of Constance started: 1417 rather than 1414. *Ibid.* The Council of Basel reasserted and renewed the *Haec Sancta* decree on various occasions; one of these was during session 18 cited by Álvarez Guerrero. For the other occasions, see Stieber 30n41. For the two versions of the *Haec Sancta* decree, see Alberigo, 165–86; Decaluwe.

⁶⁴ Álvarez Guerrero, 1536, D1’: “esta opinión fue aprobada en el Concilio Constanciense y también intervino después el auctoridad del Concilio de Basilea. Así que querer decir al contrario no sería otra cosa sino decir que todos fueron herejes y que el concilio erró en las cosas de la fe, lo cual no se ha de admitir. Y en el Concilio Constanciense está esto determinado en la sesión IIII, y en la sesión XVIII del Concilio de Basilea está aprobado el dicho decreto” (the same references are in E2’).

⁶⁵ Alberigo and Tanner, 1:439.

⁶⁶ Oakley, 2003, 98.

⁶⁷ Jedin, 1957–61, 1:41, 141; Bäumer, 230n149; Oakley, 2003, 117. Texts referring to the *Frequens* decree are in Doussinague, 522, 525, and 539.

like Jacques Almain (1480–1515) and John Mair (1467–1550).⁶⁸ Little is known about Spanish conciliarism after the Council of Basel. In fact, Jedin posited: “Was the Iberian peninsula also infected with the spirit of the conciliar theory? By no means.” And he added: “As far as we know, at the turn of the fifteenth century it found scarcely any adherents in the peninsula.”⁶⁹ Later, Goñi Gaztambide, in the only overall view of conciliarism in Spain, argued that conciliarism “declined rapidly” after the Council of Basel and that “the conciliarist current had been swept from Spain by the beginning of the sixteenth century.”⁷⁰ In “the classic land of Catholic reform,” there was no room for a doctrine that questioned the superiority of the pope over the council.⁷¹ My analysis of Álvarez Guerrero’s *Tractado* demonstrates that this conclusion does not correspond to reality.

POLITICAL CONTEXT

Although the first edition of the treatise lacks specific historical references that would enable an approximate date of composition to be determined,⁷² the circumstances of Italian politics in the winter of 1535–36, as I shall explain in

⁶⁸ For the survival of conciliarism in the first half of the sixteenth century, see Sawada; Brosse; Oakley, 2003, 51–59, 111–40; Bäumer; Schoeck, 122–24; Mayer; Burns, 124–45; Elliot van Liere; Burns and Izbicki; Landi; Izbicki, 1999; Utrera García; Avis, 91–133; Christianson, Izbicki, and Bellitto. For assessments of conciliarism as the precedent to and inspiration for modern constitutionalism, see Figgis, 41–70; Oakley, 1962 and 1983; Skinner, 2:114–23; Tierney, 1982; and the controversy about it, Oakley, 1995 and 1996; Nederman.

⁶⁹ Jedin, 1957–61, 1:41.

⁷⁰ Goñi Gaztambide, 1978, 923–24. For the role of Spanish theologians and jurists at Constance and Basel, see Beltrán de Heredia; Goñi Gaztambide, 1966; for the case of the Council of Siena (1423–24), see Villarroel González. John of Segovia is the author who has received most attention. See especially, A. Black, 1970, 22–34; A. Black, 1979, 118–93; Mann, 1992, 1993, 1994, 1996, and 2005; Madrigal Terrazas, 2000 and 2004; Wolf, 35–46, 95–128.

⁷¹ Jedin, 1957–61, 1:42.

⁷² In the first two editions, there is no reference to contemporary political events. In the third edition, the author shows demonstrable interest in linking general assertions to contemporary events. So, where the first edition sees the need to call a council by referring to current circumstances in a nonspecific way (Álvarez Guerrero, 1536, B1^v), in the third edition, Luther and the twenty years that have passed since he appeared are mentioned directly (Álvarez Guerrero, 1537, A4^r). The chapter added to the third edition alludes to the siege of Vienna by the Turks in 1529 (F4^r) and the taking of La Goleta and the city of Tunis in 1535 (F4^{v-v}). Also mentioned are the wars of conquest in Mexico and Peru (H3^r).

this section, suggest that the text was written during the months immediately prior to its publication. There is certainly a possibility that the work was written earlier; nonetheless, that Álvarez Guerrero sought a publisher for his manuscript at the beginning of 1536 clearly suggests that the author regarded the text as appropriate to that specific political context. Even though the book was printed in Valencia—Álvarez Guerrero must have had some personal or academic connection with the city from a very early date—it was in all probability written in Italy, and not only as a result of his connections with the Kingdom of Naples, discussed above. A letter sent by Gabriel Sánchez, ambassador in Rome, to Ferdinand I, dated 30 June 1536, indicates that Álvarez Guerrero was traveling with the emperor's court in June 1536.⁷³ It is reasonable to suppose, therefore, that Álvarez Guerrero was in Naples in the winter of 1535–36 and that he accompanied the emperor's retinue on its long journey from Naples, leaving on March 21, to Provence. My hypothesis is that the text was ready before Charles V arrived in Naples on 25 November 1535, and that the author circulated the text at court in manuscript form during the months when the emperor was living in the city.

At this point, three aspects of the political context during the fall and winter of 1535–36 need to be analyzed in order to highlight the possible objectives that drove a work such as the *Tractado*. After an analysis of Pope Paul III's policy toward the summoning of a general council, the two positions on the matter at the Neapolitan court will be examined to identify the court faction that shared Álvarez Guerrero's views about the pope and the general policy that the emperor should follow in relation to the papacy. Finally, I shall consider who might have been the immediate target audience of this treatise on ecclesiology written in Spanish.

Charles V disembarked in Trapani, Sicily, on 20 August 1535, after the victory in Tunis and La Goleta. The emperor, together with his court, advanced northwards through Italy. The itinerary he followed reflected his overall purpose of consolidating and increasing his clientelist networks with the various local elites and so reinforcing his presence as emperor on Italian territory.⁷⁴ When the court arrived in Rome on 6 April 1536, there were several topics of Italian and European politics that the emperor had to discuss with Paul III. Apart from the succession to the Duchy of Milan, the French invasion of the Duchy of Savoy, the question of the Duchy of Camerino, and continuing the fight against

⁷³ CT 12:lix, n4: "I am sending you (with the things included in this dispatch) a treatise on the way to hold and convene a council dedicated to the Holy Roman Emperor and written in Spanish by a certain doctor friend of mine, who sent it to me from His Majesty's camp."

⁷⁴ Visceglia; Hernando Sánchez, 2001a.

the Turk, the summoning of a general council was also on the table.⁷⁵ The two weeks that the emperor spent in Rome were sufficient to agree to call a council in Mantua for May 1537. After Charles left for Siena on April 18, Nicolas Perrenot de Granvelle (1486–1550) and Francisco de los Cobos, the emperor's two most influential advisers, remained for a further week to review the draft bull of the call, prepared by Girolamo Aleandro (1480–1542). Once the document had been approved, the two left for Siena on the 25th,⁷⁶ just four days before the first edition of Álvarez Guerrero's *Tractado* was printed in the printing house of Francisco Díaz Romano in Valencia.

The promulgation of the bull *Ad Dominici Gregis Curam* on 2 June 1536 convening the general council in Mantua must have taken some by surprise. Clement VII (1478–1534), who had suffered the humiliation of the Sack of Rome in 1527 and imprisonment by imperial troops, had always avoided calling a general council. According to Cardinal García de Loaysa (1478–1546), an imperial official in Rome from 1530 to 1538, to utter the word *council* was like invoking the devil.⁷⁷ A significant part of the College of Cardinals took not the slightest interest in it: "These great lords are so absorbed in their pleasures and ambitions that they know nothing of what is happening in far-off Germany."⁷⁸ When Paul III pointed out in his first consistory that the council was the only way to resolve the Lutheran conflict and irregularities in the functioning of the church, it was expected that many of those who listened would interpret his words as devoid of any commitment.⁷⁹ The papal nuncio in France strove to persuade Francis I (1494–1547) that Paul III "does not negotiate in the old way."⁸⁰ In spite of the fact that the correspondence of the

⁷⁵ For the political context of the winter of 1535 and the spring of 1536, see Brandi, 365–81; Keniston, 165–77; Jedin, 1957–61, 1:288–312; Jover; Knecht, 284–90; Kohler, 265–67; Mallet and Shaw, 228–32.

⁷⁶ *Corpus documental de Carlos V* (hereafter *CD*), 1:487; Du Bellay, 2:323; Keniston, 176; Jedin, 1957–61, 1:311.

⁷⁷ The cardinal of Osma, fray García de Loaysa, in a letter to Charles V, dated in Rome, 8 October 1530, in *Colección de documentos inéditos para la historia de España*, 14:90.

⁷⁸ Vergerio to King Ferdinand, 27 January 1535, in *Nuntiaturbericthe aus Deutschland nebst ergänzenden Aktenstücken* (hereafter *NB*), 1:327. In January 1535, Gabriel Sánchez wrote from Rome to King Ferdinand I that the cardinals constantly sought ways to postpone the subject of the council: see Pastor, 11:558. In February 1536, Granvelle told the papal nuncio Vergerio in Naples that he had heard that most of the cardinals did not want to know about the council; see *NB* 1:564.

⁷⁹ Pastor, 11:41.

⁸⁰ Jedin, 1957–61, 1:301n1. Compare this with the type of proposal made by the ambassador Jean de Bellay to the pope in relation to the convening of the council: Du Bellay, 2:37 (Rome, mid-August 1535).

papal nuncios in 1535 and 1536 shows Paul III's determination to hold the council—"he wants it, he wants it, he wants it" wrote the nuncio Vergerio in February 1536⁸¹—Clement VII's policy of evasiveness remained present in the minds of many political agents of the time.⁸²

The correspondence between advisers and courtiers in Rome and the court of Naples during the winter of 1535–36 highlights that there were two points of view on the imperial side about the intentions of Pope Paul III with respect to convening the council and the general interests of imperial policy. During that winter in Naples, Granvelle and Cobos showed openness and a willingness to have talks with the papal legates, Pier Luigi Farnese (1503–47)—the illegitimate son of Paul III—and Marino Caracciolo (1468–1536).⁸³ On the other hand, the courtier Juan de Valdés (ca. 1500–41), the righthand man of the viceroy Pedro de Toledo and also a protégé of Cobos, and Cardinal Ercole Gonzaga (1505–63), who informed the imperial court from Rome of the pope's movements, did not trust the pope.⁸⁴ Valdés, for example, wrote sarcastically that, at court, "they believe what the pope says of the council as if he were an evangelist,"⁸⁵ and expressed his concern at the credence given to Pier Luigi Farnese: "I see that they hold Pedro Luis in high esteem, both the emperor and these others," alluding to Granvelle and Cobos.⁸⁶ "I don't understand them," he concludes on various occasions.⁸⁷ Still, in March 1536, he wrote that he would like to prepare a report on "what we can expect from the Pope."⁸⁸ Cardinal Gonzaga's warnings about the pope's negotiations with France also went unheeded, so that when the cardinal notified the imperial court in Naples that a 200,000 escudo bill of exchange, which had to be drawn on the bank of the Strozzi, had arrived for the pope from the king of France, neither Granvelle nor Cobos gave credence to the news and assumed that the statement by the legate Caracciolo denying "the matter of the two hundred thousand escudos" was true.⁸⁹ Granvelle had promised Gon-

⁸¹ NB 1:564.

⁸² Assessment of the papacy of Paul III oscillates between recognition of his desire to reform the church—as he himself claimed in the bull *Ad Dominici Gregis Curam*—and criticism of his nepotism or his establishment of the Congregation of the Roman Inquisition in 1542. See Jedin, 1957–61, 1:354; Gleason, 139, 173–76; Fragnito, 1989 and 1993; Prosperi, 23–24; O'Malley, 60.

⁸³ For Perrenot de Granvelle, see Kohler, 127. For Cobos, see Keniston.

⁸⁴ For Valdés, see Montesinos's introduction to his edition of the letters; Crews, 2008; for Gonzaga, see Murphy; Bonora, 148–74.

⁸⁵ J. Valdés, 77 (1 January 1536).

⁸⁶ *Ibid.*, 58 (27 November 1535); the same idea is in *ibid.*, 54 (23 November 1535).

⁸⁷ *Ibid.*, 68 (11 December 1535); a similar expression is in *ibid.*, 58 (27 November 1535).

⁸⁸ *Ibid.*, 82 (1 March 1536).

⁸⁹ *Ibid.*, 65 (6 December 1535).

zaga that Piero Luigi's goodwill toward imperial affairs would one day be demonstrated, although the cardinal was skeptical: "we will see which of us will be deceived."⁹⁰ From Rome, on the other hand, the imperial legate, Vicente Lunel, minister general of the Franciscan order, confirmed Gonzaga's suspicions by pointing out that news of the Roman Curia arriving from Naples did not match reality: "there is no shortage of writers and speakers interpreting what they see in the worst light."⁹¹

Like other powerful men in Italy, such as Cardinal Benedetto Accolti (1497–1549) or ambassador Diego Hurtado de Mendoza (1503–75), the position of Valdés and Gonzaga was not circumstantial.⁹² From the early years of the empire, there had been a faction at court, headed by the grand chancellor Gattinara (1465–1530), that defended the need to maintain an aggressive stance toward Francis I and the Roman Curia and to consolidate the political power of the emperor in the Italian Peninsula, with the Duchy of Milan as the key element of control. Gattinara wrote to Charles V in 1526, "With the love of [Italy], you will be able to control the whole world."⁹³ The propaganda campaign against Clement VII and the College of Cardinals that preceded the Sack of Rome in 1527 exemplifies the terms of the anti-French and antipapal policy. The ideology of this faction drew on the medieval juridical principles of Ghibellinism, with some jurists and advisers to the new composite monarchy of the Habsburgs seeing it as an opportunity to legitimate Charles V's ambitions to establish political hegemony over Europe. Fully implementing this Ghibelline policy meant ending the Papal States and its army, because the temporal sovereignty of the pope was incompatible with the Ghibelline conception of imperial power.⁹⁴

⁹⁰ Segre, 334 (Ercole Gonzaga to Juan de Valdés, 24 December 1535). See *ibid.*, 336 (Ercole Gonzaga to Giovanni Agnello, 2 January 1536), on the promise to make him handle the goodwill of Pier Luigi toward the affairs of the empire. I am grateful to Paola Laskaris for help with this note.

⁹¹ *CD* 1:468 (letter from Vicente Lunel to Charles V, Rome, 10 February 1536).

⁹² Bonora; Pastore.

⁹³ Bornate, 469 (advice of Chancellor Gattinara to the emperor, September 1525).

⁹⁴ For Ghibellinism in the context of Charles V's empire, see Headley, 1975, 1982, 1983 (86–113), and 1992; Perry; Bosbach, 41–75; Pagden, 37–46; Cappelli; D'Amico, 117–45; König; Boone; Bonora; Dandele. Part of the French diplomatic campaign to intimidate Pope Paul III, given the imminent arrival of Charles V in Rome, was based precisely on making reference to the political road map of the Ghibelline faction in the imperial court. So, for example, the Nuncio Carpi wrote from Dijon on 13 October 1535 that it was rumored that the emperor had said that he intended to go to Rome and reform church affairs, and he said this in terms that meant that the Holy Roman emperor intended to do the pope harm: Cardauns, 152n4. See also Segre, 345 (Ercole Gonzaga to Antonio de Leiva, 5 February 1536). Charles V was aware of the French propaganda against him with respect to the pope and the College of Cardinals: *CD* 1:488 (Charles V to Isabel of Portugal, Rome, 18 April 1536).

As Juan de Valdés put it in a letter to Ercole Gonzaga, the emperor had to remain in Italy for as long as it took “to order the world and the Church.”⁹⁵

Cobos and Granvelle were somewhat distanced from the Ghibelline faction at the imperial court during the winter of 1535–36; nevertheless, they were not, as might appear from the letters of Juan de Valdés, the heirs to the so-called Flemish route, whose major actors were the viceroy of Naples, Charles de Lanoy (ca. 1487–1527), and the Flemish advisers of the emperor during the 1520s, a faction within the court that had supported a policy of understanding with Francis I.⁹⁶ The objective pursued by Charles V with the help of his advisers was to persuade Pope Paul III to break his neutrality and to openly side with him in the struggle between the Habsburgs and the Valois. Thus, Cobos openly expressed his dissatisfaction at the pope’s neutrality to the papal nuncio in February 1536 and added, three years after the Statute in Restraint of Appeals was passed by the English Parliament, that “the Pope loves the Emperor without fear of losing the obedience of Spain, and he also loves the King of France, and yet, he is afraid of losing it.”⁹⁷ Charles V was negotiating with the French monarch over the succession to the Duchy of Milan from December 1535 and mobilized his armies to strategic areas after the French invasion of the Duchy of Savoy in January 1536, but deferred any decision until his meeting with Pope Paul III in Rome,⁹⁸ an interval that would also have allowed money from Castile to arrive.⁹⁹ That winter’s correspondence reflects Charles’s conviction that Paul III would not make any decision about France until his arrival in Rome, and likewise that he had hopes of securing his support on this particular question.¹⁰⁰ Valdés and Gonzaga were convinced that that was the wrong strategy and events were to prove them right. In a letter to Isabel, Charles explained that, in the meeting that he had had with the pope on April 6, he had not managed to persuade the pope to de-

⁹⁵ J. Valdés, 41 (8 November 1535); Crews, 1992, 76.

⁹⁶ See Martínez Millán and Rivero Rodríguez; Hernando Sánchez, 2001b, 344–66; Usunáriz, 23–28, 40–50; Rivero Rodríguez, 103–37.

⁹⁷ *NB* 1:564–65 (Vergerio to Ricalcati, 9 February 1536).

⁹⁸ *CD* 1:452–53 (Charles V to Isabel, Naples, 18 January 1536).

⁹⁹ For the lack of money, see *CD* 1:473–74 (Charles V to Isabel, Naples, 20 February 1536). For the complicated financial situation of Charles V before and after the Tunisian campaign, see Carande, 438–46; Ramos Gómez; Carretero Zamora; Tracy, 155–57.

¹⁰⁰ *CD* 1:471 (Charles V to Isabel, Naples, 18 February 1536). The letters that he received from Rome from Vicente Lunel must have encouraged him in this expectation; in one of them, he goes so far as to state that the pope supported Charles V’s plan to grant the investiture of the Duchy of Milan to Francis I’s third son (*CD* 1:468 [Rome, 10 February 1536]) and not to the second, the Duke of Orleans, who was proposed by Francis I. On this matter, see J. Valdés, 68 (11 December 1535).

clare war against Francis I. Charles pressed the matter, but finally gave up—“we did not want to push him further”—when he realized that the pope “was determined to remain . . . in this neutrality.”¹⁰¹

Alfonso Álvarez Guerrero was undoubtedly a member of the Ghibelline faction at the imperial court. Both the treatise on the general council as well as his other juridical works confirm his political and doctrinal affiliation. The *Tractado*, with its recurrent hypothesis of a pope unwilling to call a general council, shows the same distrust of the actions of Paul III as that expressed in the correspondence of figures such as Valdés and Gonzaga. The name of Álvarez Guerrero is not mentioned in the correspondence of Valdés, Gonzaga, or other contemporary figures linked to the Kingdom of Naples; nevertheless, it is possible that some of the courtiers encouraged Álvarez Guerrero to publish his *Tractado*, and those belonging to the Ghibelline faction would have used his text to try and promote more aggressive negotiations with the pope. The connection with that court faction might explain the choice of Spanish rather than Latin. The work would not be aimed at the political agents of Europe at the time—who often did not know Spanish—but at Charles V; the heavyweights in the emperor’s entourage, such as Granvelle and Cobos (who did not know Latin); and the Spanish audience in the different courts that formed the composite monarchy of Charles V. Significant in this respect is the notice of a copy of the work being dispatched from Rome to the Viennese court of Ferdinand I in the letter by Gabriel Sánchez, mentioned above.¹⁰²

In his *Tractado*, Alfonso Álvarez Guerrero wrote a sort of private report for the emperor, although in the form of a typical legal treatise on ecclesiology. Mixed in with the legal arguments are insertions typical of a private report, such as “it is necessary for your majesty to send someone to negotiate” or “it concerns and is in your majesty’s interests to press for and obtain the universal good of Christianity.”¹⁰³ Charles V did not follow the advice of Álvarez Guerrero, which does not mean that he disapproved of it or did not consider it opportune; indeed, he never made the least attempt to suppress the antipapal position defended by important members of the imperial court. If he did not share all the implications of this course of political action, he did consider it strategically useful.¹⁰⁴ It should be remembered that, years later, the viceroy of Naples, whom

¹⁰¹ CD 1:488 (Rome, 18 April 1536).

¹⁰² CT 12:lix, n4.

¹⁰³ Álvarez Guerrero, 1536, G1^v: “es necesario que Vuestra Majestad mande negociar”; *ibid.*, G1^r: “y que a Vuestra Majestad toque y convenga instar y procurar el bien universal de la cristiandad.”

¹⁰⁴ Lutz, 1974, 68, went so far as to argue, for example, that the declaration against Luther at the Diet of Worms (1521) was based on conciliarist principles.

the emperor trusted absolutely, became the patron of the Latin edition of this treatise.

THE POLITICS OF CONCILIARISM

Why did Álvarez Guerrero defend a conciliarist view of the relations between the pope and the council? The need to convene a general council to improve the way the church functioned and to resolve the problem of the Lutheran Reformation had been repeatedly and emphatically called for in many different sectors of European society since the 1520s. Nonetheless, this position did not have to be linked to a conciliarist understanding of the relations between the pope and the council. Some of the most caustic diatribes against corruption in the church were written by men like Erasmus who questioned neither the superiority of the pope over the council nor papal infallibility.¹⁰⁵ Not even the propaganda documents drawn up by Gattinara or his secretaries—where the priority was to decide whether the pope, cardinals, or emperor should convene the council, not relations between the council and the pope—defended the conciliarist doctrine.¹⁰⁶ As I shall explain below, conciliar government of the church, as proposed by the *Tractado*, represented a means of increasing the capacity for influence of the emperor over the papacy and also over the national churches of the respective territories subject to his Crown.

There is no standard way to characterize conciliarist theory, since it encompassed lines of thought that were not always perceived as necessarily connected. The biographical contexts of individual authors also, on occasion, decisively influenced the way the theory was formulated.¹⁰⁷ This variety of formulations and implications was noticeable both at Constance and Basel, as well as among those authors who defended conciliarism in later periods. The appearance of the conciliarist doctrine in Álvarez Guerrero's *Tractado* should be understood specifically in the context of power relations between the empire and the papacy, rather than as an ecclesiological debate about the internal organization of the church. His conciliarism is the expression of what, in relation to early sixteenth-century conciliarism in Europe, James H. Burns called "an alliance with royal power against papal pretensions."¹⁰⁸ This circumstance explains the peaceful coexistence of conciliarism and Ghibellinism in the *Tractado*, as well as the author's deliberate silence about possible parallels between ecclesiastical order and civil political order. The alliance that Burns mentions does not, however, mean that early sixteenth-century conciliarism was always expressed in these terms. Not all con-

¹⁰⁵ McSorley.

¹⁰⁶ Headley, 1975, 102–07; Headley, 1983, 100–02; A. Valdés, 66.

¹⁰⁷ Oakley, 2003, 66–72.

¹⁰⁸ Burns, 145.

temporary conciliarist authors would have accepted an approach like Álvarez Guerrero's; treatises like those by Giovanni Gozzadini (d. 1517), a member of the papal court, or Jacques Almain, a Sorbonne theologian, shared a set of ideas in common with Álvarez Guerrero, but were written with very different objectives in mind.¹⁰⁹ Although Gozzadini and Almain, like Álvarez Guerrero, base their doctrine on "the most holy Councils of Constance and Basel," neither of them would have backed a treatise in which conciliarist doctrine and church reform were inseparable from imperial political interests.¹¹⁰

Weakening the position of the papacy in view of the celebration of a general council had important consequences for the imperial court. Bearing in mind that Charles V was counting on personally choosing the bishops from the Habsburg territories who would attend the future council, constituting a general council in which bishops were not subordinate to papal authority was the best way to ensure that imperial interests would be satisfied.¹¹¹ In the specific case of the Kingdom of Naples, which was important because of its strategic position in the peninsula, the viceroy, Pedro de Toledo, intended to follow the same policy, as can be seen years later in March 1545 when he gave the order that only four bishops—those of Gaeta, Castellammare di Stabia, San Marco, and Lanciano—could attend the Council of Trent, to the protests of other prelates in Naples.¹¹² As the Italian historian Francesco Becchetti (1743–1814) pointed out, "this was tantamount to wanting to reduce an ecumenical council to a few votes, and these, as might be feared, were even more dependent on the man making the selection."¹¹³ A council set up in these terms would have had an impact on two major issues significant to anyone familiar with the day-to-day business of imperial politics in Rome: on the one hand, the implementation of royal patronage in the kingdoms of Aragon and Castile and, on the other, negotiating the subsidies that the ecclesiastical estate of the two kingdoms granted the Crown for the fight against the Turk.

Historiography has repeatedly indicated the extent to which Pope Eugene IV managed to secure the support of the secular princes at the Council of Basel by ceding them control over their respective national churches. This did not, however, mean the defeat of conciliarism.¹¹⁴ In situations of political weakness, successive popes would see themselves obliged to make concessions to different

¹⁰⁹ On Gozzadini, see Jedin, 1939.

¹¹⁰ Burns and Izbicki, 134.

¹¹¹ Lutz, 1992, 252.

¹¹² Hernando Sánchez, 1994, 444.

¹¹³ Becchetti, 9:143.

¹¹⁴ Hay, 1977, 33; Hay, 1989, 316–19; Stieber, 64–71; Thompson, 170–71, 204–05; Oakley, 2003, 50–54; O'Brien, 28–35. For concordat policy between the pope and the civil powers after Basel, see Pellegrini, 86–102.

secular rulers by ceding control over ecclesiastical appointments and the management of church benefices. In the case of Castile, the bulls of donation issued by Alexander VI (1431–1503) after Columbus (1451–1506) reached the Americas are well known. Years later, through the bull *Eximie Devotionis Affectu* (1523), Adrian VI (1459–1523) granted Charles V the right to patronage and to nominate suitable candidates for all vacancies in all the bishoprics, priories, abbeys, and major benefices in Navarre, Castile, and Aragon. Francis I had obtained a similar concession as a result of the concordat of Bologna in 1516.¹¹⁵ Clement VII ratified the latter concession in the bull *Etsi Ea Quae*, dated Bologna, 11 January 1530.

Nevertheless, the papal concessions did not mean that Charles V had complete control over appointments to vacant positions or over church revenues. So, for example, two days after the death in Rome of the bishop of Jaen, Esteban Gabriel Merino, on 28 July 1535, Pope Paul III appointed his grandson, Alessandro Farnese (1520–89), as administrator of the bishopric, even though he was only fifteen years old. As the protonotary apostolic Ambrogio Recalcati acknowledged in a letter dated September 3 to Alberto Pio (1475–1531), the pope had proceeded “without having waited for any agreement from his Majesty.”¹¹⁶ The question of the bishopric of Jaen was the central topic of all diplomatic talks in Naples and Rome, both in the negotiations between the papal legate, Per Luigi Farnese, and Charles V, and in the case of Ambassador Cifuentes in the Roman Curia.¹¹⁷ In the treatise by Álvarez Guerrero, the subject is broached in terms that suggest that the author might have had the specific instance of the bishopric in Jaen in mind: “And in Spain, the pope is doing something else that detracts from the beauty of religion and its well-being, because, with the bishop dead, he installs a collector and carries off the fruits of the bishopric until the arrival of the new bishop, which is not to build but to destroy; for, since it is a constant that the fruits of any bishopric that are superfluous to the needs of the bishop for his necessary expenses must be distributed among the poor, it appears that the pope wants the poor to die of hunger and not to eat while the episcopal seat is empty.”¹¹⁸ So, despite the ratification of Clement VII, one of the matters

¹¹⁵ See Nieto Soria; Barrio Gozalo, 83–85.

¹¹⁶ *CT* 4:cxxv, n1.

¹¹⁷ Visceglia, 145. See, for example, the comments on the matter by Ercole Gonzaga in Segre, 290, 326, 343, 362.

¹¹⁸ Álvarez Guerrero, 1536, G1: “Y también el papa hace en España otra cosa que es contra la hermosura del estado de la religión, porque, muerto el obispo, pone colector y lleva los frutos del opispado hasta la venida del nuevo obispo, lo cual no es edificar, mas destruir, porque, dado por constante que los frutos de cualquier obispado superfluos de lo que el obispo ha menester para su gasto necesario se han de repartir entre los pobres, parece que quiere el

that Charles would have to negotiate with Paul III during his stay in Rome in April 1536 would be precisely a new statement about “our patronage right in any churches of Spain that might become vacant in this court of Rome . . . to avoid other similar doubts, contention and provisions like the one in the bishopric of Jaen that the College and others in the Council of His Holiness wanted to defend and uphold for major and obvious reasons, which His Holiness had legally provided for.”¹¹⁹

The Crown, moreover, did not have direct control over the revenues of the church of Castile. Rulers did not “simply impose a levy on the church,” but often “had to negotiate with the clergy for the contribution.”¹²⁰ Sean Perrone has highlighted the difficult negotiations that the Crown held with the Congregación del Clero, or Assembly of the Clergy, which was charged with voting on the church’s financial contribution to the Crown. First the pope endowed the Crown with a monetary contribution—the so-called subsidy—which ranged from a tenth to a half of the ecclesiastical revenues obtained by the church of Castile in one year. Afterward, the assembly negotiated downward the percentage that the pope would grant. Finally, the pope had to approve the amount eventually stipulated by the assembly, a power that enabled him to continue hampering the “princes’ ability to gain control over the national church’s financial resources.”¹²¹ Perrone’s study of the negotiations between Crown and assembly shows that “the Assembly defended ecclesiastical liberties and hampered royal attempts to extract more money from the church.”¹²² So, for example, just three years before the *Tractado* was published, negotiations about the subsidy that the assembly had to contribute to the Crown, which was nominally earmarked for financing the fight against the Turk, broke down in the face of requests—half the year’s rents, according to Clement VII’s bull—that were considered a threat to ecclesiastical liberties. The church went so far as to suspend Divine Offices in June 1533 as a way of applying pressure; they had done so in 1519 and would do so again in 1556.¹²³

In a context of tension between the Crown and the church of Castile, a treatise such as Álvarez Guerrero’s would have had obvious implications for the

papa que los pobres mueran de hambre y no coman durante el tiempo que la silla episcopal estuviere vaca.”

¹¹⁹ *CD* 1:489 (Charles V to Isabel, Rome, 18 April 1536). Confirmation of the bulls of Adrian VI and Clement VII was signed on 7 July 1536. Alessandro Farnese ceased to administer the bishopric on 6 July 1537.

¹²⁰ Perrone, 1.

¹²¹ *Ibid.*, 3n7, 12 (quotation), 223–45.

¹²² *Ibid.*, 1, 3n7, 5 (quotation).

¹²³ *Ibid.*, 85–108. See also Carande, 341–42.

members of the imperial court. The scenario envisaged by Álvarez Guerrero reduced the power of the pope and increased that of the general council, where a significant number of bishops were going to represent the interests of the emperor himself. When it came to settling the amount and payments of the annual subsidies, for example, it might mean modifying the ground rules on which the negotiations between the Crown and the Assembly of the Clergy, and also the pope, were based. Álvarez Guerrero was more explicit about the fiscal implications of his ecclesiology in the third edition of the treatise, where he stated that the pope should finance the emperor's campaign against the Turk by "giving all the treasure of the Church," because it would be lawful in these circumstances "to sell the heritage of the Church" and "compel the bishops, other clergy and the monasteries to give all the money and jewels that they have stored in abundance so that it can be spent on defending the Christian religion."¹²⁴ A decade earlier, in the context of preparations for the Crusade against the Turk, Chancellor Gattinara had already pointed to the need to negotiate with the pope for "other means with which to extract as much money as possible from the clergy," which included, apart from the appropriate subsidy, "giving part of the fruits and revenues from their benefices," the partial sale "of their goods and the roots of said benefices," or to hand over directly some of "the treasure that the churches have in gold and silver."¹²⁵ The consequences of Álvarez Guerrero's demands would have been very clear to any reader at the imperial court who still remembered the difficult negotiations with the Assembly of the Clergy: "the clergy are furious," the ambassador, Martín de Salinas, wrote in 1533.¹²⁶ Furthermore, his explicit aggressiveness toward the temporal power of the church would have been welcomed by those who supported an openly Ghibelline political agenda like the one sustained by Gattinara years before.

FROM EPISCOPALISM TO CONCILIARISM

The political significance of conciliarism in Álvarez Guerrero's *Tractado* is patently obvious. Nevertheless, the desire to legitimate a course of political action that had support within the imperial court does not in itself explain the presence of conciliarism in the *Tractado*. It would have been difficult for the *Tractado* to achieve its objectives as an argumentative text if conciliarism had not

¹²⁴ Álvarez Guerrero, 1537, G2^{r-v}: "Dando . . . el papa todo el tesoro de la Iglesia"; "vender el patrimonio de la Iglesia"; "compelerá a los obispos y otros clérigos, y monesterios a que den todo el dinero y joyas que tienen en abundancia y guardado para que se gaste en defensa de la religión cristiana." See also in this edition F4^v.

¹²⁵ Bornate, 464 (advice of the grand chancellor to the emperor, September 1525).

¹²⁶ Rodríguez Villa, 530 (Valladolid, 20 June 1533).

been an acceptable ecclesiological position within the Spanish church. Three editions of the *Tractado* in a single year suggest that the work was well received and that its brand of conciliarism was welcomed by its target audience; it would not have made much sense otherwise to prepare a Latin edition twice the length of the original. In this section, I propose that the absence of condemnation of conciliarism can be explained by the presence of episcopal positions in the Spanish academic and religious world.

Hubert Jedin pointed out that “the Spaniards were not interested in the question of authority as such” and that “their sole concern was the practical problem of making sure that the reform of Councils would be convened at frequent intervals and their decrees carried into effect.”¹²⁷ Jedin arrived at this conclusion after reading some of the documents drawn up in Castile reacting to the beginning of the Council of Pisa, and in the months beforehand to the beginning of the Fifth Lateran Council. Jedin considered that this position “held by the ecclesiastical-political advisers of Ferdinand the Catholic” was a symptom of the “proud episcopalism, deeply charged with national feelings, of the men who later on were to represent Spain at the Council of Trent.”¹²⁸ Jedin pointed out an important nuance—namely, that it was consistent to argue the validity of the *Frequens* decree and the obligation of the pope to comply with the decisions of a council without thereby defending the superiority of the council over the pope. Nonetheless, that approach did not imply, as Jedin suggests, that there was no debate about “authority as such” within the Castilian church. Episcopalism, in fact, took shape precisely as a reaction to a certain interpretation of the authority of the pope in relation to the bishops, which explains why conciliarism might come to be regarded as a possible development of this “proud episcopalism.”

The key to the matter lay in the way defenders of the papalist position interpreted the distinction between the power of jurisdiction, or government (*potestas iurisdictionis*), which was what enabled a diocese to be governed, and the power of order (*potestas ordinis*), the power to administer the sacraments. The second power was granted to the bishops by virtue of having been ordained, and nobody could take it away from them because it was based on divine law. The first power, however, was not granted to the bishops directly by Christ, but by the pope as Peter’s successor, and whether it was granted or refused depended therefore completely on the will of the pope. This distinction, developed in the thirteenth century by theologians such as Thomas Aquinas, and later adopted by canonists to defend papal supremacy, reached its fullest expression in the fifteenth century in Juan de Torquemada’s *Summa de Ecclesia*

¹²⁷ Jedin, 1957–61, 1:41.

¹²⁸ *Ibid.*

(*Summa on the church*, 1453), and later defenders included Thomas de Vio, Francisco Suárez, and Robert Bellarmine.¹²⁹

Episcopalism implied resistance to this doctrine. The episcopalist position interpreted the Gospel passage where Christ hands Peter the keys to the kingdom of heaven (Matthew 16:18–19) as meaning that the bishops had received the same power of jurisdiction from Christ as that received by Peter. This interpretation was already in some passages of the *Decretum*, but it was in the context of conciliarist doctrine—starting with Guillaume Durand the Younger at the beginning of the fourteenth century—that its implications were explored in the framework of the relations “between the authority inhering in the Universal Church and the powers attributed to its earthly head, the Pope.”¹³⁰ From this point of view, it is understandable that some Castilian bishops and prelates should be interested in a doctrine that upheld, among other things, the infallibility of the general council, the necessary submission of popes and cardinals to legislation passed by the councils, the justification of disobedience in the face of unjust papal laws or dispensations, and the restoration of episcopal authority and the resulting elimination of papal exemptions from episcopal jurisdiction. Defending some of these episcopalist positions did not imply defending the validity of *Haec Sancta* as dogma. Francisco de Vitoria’s relection on the power of the pope and the council shows that point of view quite clearly.¹³¹ Nonetheless, as Alfonso Álvarez Guerrero’s *Tractado* highlights, it was but a short step from episcopalism to conciliarism.

A study of texts written by Spanish authors during the first decades of the sixteenth century about the need for the general council and church reform would uncover other examples of this shift in position. I shall confine myself to just two examples. In the general congregation of the Council of Trent held on 19 November 1546, the bishop of Astorga, Diego de Álava y Esquivel (d. 1552), argued in favor of the council’s autonomy—“the council enjoys full

¹²⁹ Tierney, 1955, 25–36; Wilks, 331–53; Pennington, 6–8; Oakley, 2003, 5–9.

¹³⁰ Tierney, 1955, 30. For Durand, see Fasolt, 202–06.

¹³¹ In his relection *De Potestate Papae et Concilii* (On the power of the pope and the council, 1534), Vitoria accepted as “plausible” both the opinion that sustained the superiority of the pope over the council and the contrary one, defended the infallibility of the council on divine law, approved of the convening of a council against the will of the pope in particular circumstances, and justified the disobedience of subjects to an order or dispensation when it was unjust: Vitoria, 1933–35, 2:227–30, 266, 277. Skinner, 2:145, already indicated the extent to which Vitoria was committed in this relection to some characteristic ideas of conciliarism. On the other hand, in his relection *De Potestate Ecclesiastica Altera* (2 On the power of the church, 1533), Vitoria argued that the apostles had received from Christ the same power as Peter: Vitoria, 1991, 133–36. For this passage, see Elliot van Liere, 610.

power to decide in its own affairs”—after the pope appointed a secretary, an advocate, and an abbreviator, which the bishop regarded as an attempt to influence the course of proceedings.¹³² After his participation in the Council of Trent, Álava y Esquivel also wrote a treatise on the general council and the reform of the church rejecting the supremacy of the council over the pope. Nevertheless, in the same treatise, going against the *Pastor Aeternus* bull of the Fifth Lateran Council, he defended the power of the emperor to call a general council given the failure of the pope and the College of Cardinals, demanded that arrangements about annates approved at the Councils of Constance and Basel be observed, and highlighted the need to bear in mind the Pragmatic Sanction of Bourges in its prohibition of appealing directly to the pope “omisso medio,” that is, without going through intermediate courts.¹³³ Five years later, the imperial fiscal advocate at Trent, Francisco de Vargas (d. 1566), pointed out that the *Pastor Aeternus* bull did not abrogate the Pragmatic Sanction of Bourges and that France therefore continued to regard the Council of Basel in all its phases as a legitimate council.¹³⁴ Likewise, in a handwritten report addressed to Antoine Perrenot de Granvelle (1517–86), he denied the ecumenical nature of the Fifth Lateran Council and defended the dogmatic character of the *Haec Sancta* decree.¹³⁵

These testimonies record that conciliarism as an ecclesiological doctrine—and not just a doctrinal weapon in the hands of imperial or monarchic powers—did not disappear from Castile in the first half of the sixteenth century. Its presence is confirmed in authors like Álvarez Guerrero who openly supported the superiority of the council over the pope and the dogmatic validity of the *Haec Sancta* decree, and also in authors who did not accept that critical doctrinal point but did accept other constituent elements of it. These examples highlight the need to study this history of conciliarism in parallel with the history of episcopalism in the early modern age.

CONCLUSIONS

The *Tractado* by Álvarez Guerrero is an attempt to endorse deep reform of the relationship between papal power and imperial power by means of canon law. The convening of the council by the emperor or the inferiority of the pope with

¹³² Jedin, 1957–61, 2:22.

¹³³ Álava y Esquivel, fols. 21^v, 78^r, and 86^v.

¹³⁴ *CT* 11:666, lines 28–37. Minnich, 2001, 14. See Álava y Esquivel, fol. 86^v, for the Pragmatic Sanction itself. The assertion by Vargas, however, was not correct; see Alberigo and Tanner, 1:640–45; Oakley, 1979, 78.

¹³⁵ Gutiérrez, 227–28, 231–33.

respect to the general council went against papal legislation and the predominantly papalist position in the Roman Curia. The *Tractado* is dedicated to Charles V and was conceived in order to justify the legality of the emperor taking unilateral action with respect to calling a general council. The work was aligned therefore with the objectives of the Ghibelline political faction at the imperial court, which favored the suppression of the temporal power of the church and the political control of the Italian Peninsula by the emperor. The successive reprints and enlargements of the treatise suggest that it was widely circulated in the courtly centers of the empire.

The conciliarism of Álvarez Guerrero was based on two traditions deeply rooted in Castilian political and ecclesiastical thought: on the one hand, the monarchy's desire to increase royal patronage and ensure that the ecclesiastical subsidies would be granted, and on the other, the desire of Castilian episcopatism to safeguard its jurisdictional autonomy against papal interference. The Castilian basis of his ideas explains why relations between the pope and the church of Castile predominated in his work, even though the reform of the church would be undertaken by Charles V as emperor, as could not be otherwise. That defense of the royal patronage and the demands of episcopatism were linked together in Álvarez Guerrero's treatise does not necessarily mean that the clergy were faithful allies of the political objectives of the monarch, as the difficult negotiations between Charles V and the Assembly of the Clergy demonstrate. Every formulation in this direction should be analyzed with the profile of the author in mind, the context in which the ideas are presented, and the possible recipients. As I have explained in this study, the context of European politics during the winter of 1535–36 are key to understanding the objectives of this *Tractado*.

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