CHAPTER THREE

DISCIPLINE AND JUSTICE IN AN AGE OF MUTINIES

A. Modo Militar:

Justice in the hands of the high command, 1567–1587

The Spanish army that Alba led to the Netherlands was probably the most disciplined fighting force of its day. Its success depended on the strict enforcement of clear professional standards of competence and obedience among soldiers and officers alike. A sharp observer of contemporary military practice, Blaise de Monluc, held up the tercios as examples by pointing out that “in my time I have always seen the Spaniards to be severe punishers of those who through cowardice or baseness surrendered or lost their fortresses, and this would be very well and wise for a [French] prince to do.”1

During its first twenty years in the Low Countries, the Army of Flanders operated under a system of justice sometimes called “modo militar” (or military way), that gave the Captain General and his high command full control of the process of investigation and punishment of transgressors.2 The system’s procedures, in place since the time of Charles V, were simple and straightforward.3 The Captain General would issue bandos (public orders) and the Maestres de Campo, Colonels and Captains would directly enforce them with the help of the military police. Such was the case of the soldier executed in June 1568, whose corpse was put on display in the main square in Mechelen (Malines)

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3 The Statute of Charles V, issued in 1548 and reaffirmed by Philip II in his Ordinance of 1570 gave the cabos the right to administer military justice in criminal cases: A.L.P. de Robaulx de Soumoy, Etude Historique sur les Tribunaux Militaires en Belgique, (Brussels, 1857), 52. For a concise description of the enforcement of discipline in Alba’s tercios see Quatrefages, Los Tercios, 146–152.
with a sign that read “for disobedience to his officers.” Cowardice, negligence or incompetence were also handled internally with equal swiftness and severity. Only cases involving civilians or those pitting one officer against another came before special judges, often university-trained personnel or letrados known as auditores or auditors and attached to tercios and garrisons. Yet the auditors had to consult with the Oficiales Mayores and could not issue verdicts without their approval. All appeals from these judges went to the Auditor General, or Auditor General, or to the Cavalry Auditor, two officials who made their decisions and issued their final sentences in close consultation with the Captain General.

Alba’s emphasis on discipline made this a very effective way of maintaining order in the Army of Flanders, both among the soldiers and the corps. The Duke jealously protected the tercios’ exemption from the jurisdiction of local judges, the so-called fuero militar or traditional Spanish military rights, but he strictly applied the bandos and seldom hesitated to demote or punish an officer who had disobeyed him or neglected his duties. For instance, in 1568 the Sardinia tercio, with the tacit consent of its officers, ran amok in the Dutch countryside to avenge a previous defeat at Heiligerlee. The outraged Alba summoned its Maestre de Campo don Gonzalo de Bracamonte and all his Captains, disbanded their tercio and demoted them to reformed or inactive status.

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4 Mendoza, Comentarios, 418–419.
5 See for instance the case of the cowardly soldier “put through the pikes,” (i.e. executed) by Valdés’ tercio in 1575. Mendoza, Comentarios, 516.
6 Martín de Eguiluz, Milicia, Discuro y Regla Militar, (Madrid, 1592), 113b.
8 Samples of Alba’s bandos can be found in don Sancho de Londoño’s Discuro. See also BNM Ms. 300, 16, Hordenes del Duque de Alva sobre la gente de guerra, 1–8–55.
9 For a statement of general principle see Alba’s “Discuro Sobre Reforma de la Milicia” in BNM Ms. 12179, no. 11. For its application see for example the arrest of Captain Peñalosa for negligence during the siege of Haarlem in January 1573: AGS E 555, 138, Capitulos sacados de cartas escriptas por un Capitan . . . 12 to 24–1–73. See also Ossorio, Vida y Hazañas, 369.

There were many instances in which Spanish soldiers were protected from local prosecution. For example, in Antwerp the Castellan Sancho Dávila and Colonel Mondragón once seized a soldier in the street when he was being led to jail by a local judge. The city authorities complained to the Duke of Alba who did nothing: AGS E 557, 141, Relacion de lo que paso [a] Mos. de Champañí, Governor de Anveres . . ., n.d. [1574]. For other instances see Williams, Works, 25. Furthermore, Alba could be quite lenient in the enforcement of discipline when he wished to terrorize the local population with his dragomades. For a complaint against him see IVDJ Envio 68, Cosas que han hecho al duque de alba aborrecible de todas las naciones, n.d. [1574], article 8.