

*Crimen y castigo en el  
mercado negro en España, 1940-53:  
un análisis de la Fiscalía de Tasas*



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### ***Crimen y castigo en el mercado negro en España, 1940-1953: un análisis de la Fiscalía de Tasas***

*Resumen:* Teniendo como referencia última la teoría económica relativa al control de precios y al racionamiento, el artículo analiza la legislación concerniente a las actividades del mercado negro en España durante 1940 y principios de los cincuenta, así como las sentencias del Tribunal Supremo relacionadas con los delitos cometidos en ese mercado y el archivo de la Fiscalía Provincial de Tasas de Teruel. Está demostrado que la legislación inicial se distinguía por su severidad, si bien una gradual, aunque nunca completada, normalización del sistema jurídico tuvo lugar con el paso del tiempo. El Tribunal Supremo dictó duras sentencias, pero la limitada actividad de la Fiscalía de Tasas indica que las actividades relacionadas con el mercado negro, al menos en algún grado, eran toleradas por el régimen. Aunque esto supusiera una ventaja desde el punto de vista del bienestar social, el control de precios y el racionamiento continuaban teniendo serias imperfecciones, como una deficiente distribución de las cuotas de producción, la probabilidad de desvíos y el surgimiento posterior de un mercado paralelo.

Palabras clave: mercado negro, dilemas de los precios de alimentación, legislación, controles de precios, sentencias.

### ***Crime and Punishment in the Black Market in Spain, 1940-53: An Analysis of the Fiscalía de Tasas***

*Abstract:* On the background of economic theory concerning price controls and rationing, the article analyses the legislation dealing with black market activities in Spain during the 1940s and early 1950s, as well as Supreme Court sentences related to black market crimes, and the archive from the Fiscalía Provincial de Tasas en Teruel. It is demonstrated that the initial legislation was distinguished by severe harshness, but a gradual, although never complete, normalization of the jurisdictional system took place over the years. Harsh sentences were handed out by the Supreme Courts, but the limited activities of the Fiscalía de Tasas indicate that black market activities were, at least to some degree, tolerated by the regime. Although this was an advantage from the point of view of social welfare, the price control and rationing system continued to have serious flaws, including a deficient distribution of production quotas, the possibility of diversion, and the belated introduction of a parallel market.

Keywords: Black markets, food price dilemma, legislation, price controls, sentences.

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## 1. *Introduction*

After the end of the Civil War, the agrarian sector in Spain lived through a prolonged period where the production of most crops was considerably lower than before the war. At the same time, the sector was subject to intensive state control, which included measures such as production quotas, restrictions on inputs, and wage controls. It was furthermore compulsory for the farmers to sell most of their production to a state monopoly at fixed prices. Simultaneously, consumption was restricted through a coupon rationing system with prices fixed by the state, which spanned most of the foodstuffs bought by Spanish consumers.

The combination of lower levels of output, a state monopoly, which bought from the farmers at fixed prices, and a consumer rationing system, resulted in the emergence of a large black market for foodstuffs. Virtually anything could be bought in the black market, and the Franco regime reacted in October 1940 by creating a special prosecutor and an administrative court, the *Fiscalía de Tasas*, to deal exclusively with black market crimes. The organization consisted of a *Fiscalía Provincial de Tasas* in each province, headed by the Civil Governor, and a *Fiscalía Superior de Tasas*, located in Madrid, which worked as a "court of appeals". But the *Fiscalía de Tasas* did not manage to eliminate the black market and, around 1950, the Ministry of Agriculture re-estimated the production statistics for the 4 main cereals<sup>1</sup> during the 1940-1949

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1 • I.e. Wheat, Barley, Rye and Oats.

period<sup>2</sup>. It turned out that the black market for wheat consumed more than 50 % of the total commercialized amount between 1939 and 1949<sup>3</sup>, and although relatively smaller, for the other three cereals it was still significant. Similar statistics were never made for other crops, but nevertheless there is general agreement among economists and historians that the black economy in the agrarian sector was very important in Spain from the end of the Civil War to the early 1950s.

The black market for foodstuffs is an important object of historical analysis for a number of reasons. From a social point of view, it affected the Spanish population for good or bad during its almost 15 years of existence. Some people became rich, while others were ruined or jailed. Society's social coherence was likely to be threatened by the fact that a large part of the population obtained their basic foodstuffs from people who were technically criminals. At the same time, corruption within the state administration was probably widespread. From an economic point of view, a large part of the economy escaped the control of the state, and consequently the regime was unable to organize its policies on the basis of a profound knowledge of available resources<sup>4</sup>. To some degree, this lack of knowledge also affects historians and economists who today are analyzing the Spanish economy and history during this period. Finally, from the point of view of popular mentality, the memory of the black market is likely to have had an effect on the conception of state and society, both for those who lived through the period, as well as, to a minor degree, their descendants.

Despite the fact that black market mechanisms are well understood on a theoretical level, systematic details about the daily "life" of the black market in Spain are difficult to find in the economics literature. Oral history gives some insight into the phenomenon, but its use is hindered by the fact that people are often reluctant to talk about criminal activities. Circumstantial or anecdotic evidence can be collected, but a coherent picture can be very difficult to gather from such material. Things as they are, the present analysis of the *Fiscalía de Tasas* will shed new and important light on activities related to the black market.

The present work deals with the problem of how the Franco regime reacted to the emergence of a black market. To analyze this, the legislation and institutions

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2• See: Ministerio de Agricultura (1950: 3-4 and 15), and Ministerio de Agricultura (1951).

3• Barciela (1981b: 27)

4• By 1940, the relative importance of the agrarian sector was still very large, employing close to 50 % of the active population and producing approximately 30 % of GDP.

involved in the actions against black market trade are at the core of the analysis. To the present, nobody appears to have found or gained access to an archive from the *Fiscalía de Tasas*. The *Archivo General de la Administración* in Alcalá de Henares does not currently keep material from the institution, neither at the provincial nor at the national level. For the present article, however, one of the main sources is the archive from the *Fiscalía de Tasas* in Teruel, which is located in the local *Archivo Histórico Provincial*. However, given that this article deals with the black market in general, local conditions in the province of Teruel are only included to a limited degree in spite of the geographic origin of this source.

The main conclusions are that legislation concerning the punishment of black market activities was initially characterized by severe harshness. Later, during the 1940s, there was a gradual, although never complete, normalization of the jurisdictional system. Simultaneously, the relatively limited measures of the *Fiscalía de Tasas* at a local level indicate that black market activities were at least to some degree accepted by the regime. Although this was an advantage from the point of view of social welfare, the system had serious flaws, the solution for which could have been found earlier.

This article consists of 6 sections including this introduction. Section 2 establishes the theoretical background for the problem under analysis and is followed by Section 3, which examines the predecessors of the *Fiscalía de Tasas* during the Civil War, as well as the main legislation that governed the institution between 1940 and 1953. In Section 4, these aspects are seen in the light of the sentences for judicial cases concerning black market crimes which were brought before the Military Supreme Court, the National Court and/or the Supreme Court during these years. Section 5 contains the main analysis, based on the archive in Teruel, as well as other sources. Finally, the conclusions can be found in Section 6.

## 2. *The food price dilemma*

As mentioned in the Introduction, the Spanish agrarian sector in the post Civil War period was characterized by state intervention and a level of production that was significantly lower than before 1936. Since the early 1980s, the main interpretation has been that low levels of production were mainly the outcome of interventionist

policies on the part of the Franco regime. The main argument was that the state-fixed prices received by farmers in the 1940s in real terms, were considerably lower than pre-war prices, and one of the consequences was a lower level of production<sup>5</sup>.

In an earlier work, however<sup>6</sup>, I argued that official prices were not the primary factor behind the post war decline in the cereal system. I found, instead, that it was mainly a lack of work animals and chemical fertilizers that caused this situation. Furthermore, I claimed that the existing huge black market alongside state-imposed wage controls offset, to a significant degree, the income effect of official prices on farmers. Finally, I maintained that state intervention in production, marketing and consumption of foodstuffs was the norm rather than the exception in Europe during the 1940s and early 1950s. Hence, the regime's policy in this particular field, although far from perfect, must be considered part of a general trend found in both democracies and dictatorships during the period. Nevertheless, in the case of the olive sector I found that state intervention was unnecessary during most of the post war-period, and led to market distortions that could have been avoided<sup>7</sup>. From here on it is assumed that total post war agrarian production was hindered by external constraints on the Spanish economy, although this wasn't necessarily the case for all sub-sectors.

Regardless of what the causes for this development might be, there is no doubt that the official food market during the 1940s was characterized by imbalance between supply and demand. As described by Barciela, prices paid by the state to farmers were fixed below their equilibrium levels, in a situation where the price elasticity of demand was very low. The result of this combination was a supply shortage and the emergence of a black market for basic foodstuffs. In some years, this process was reinforced by producer prices being set before any knowledge was available about the size of the harvest. This meant that a bad harvest led to a fall in the income producers received through official channels, forcing them to work outside the state monopoly system to an even greater degree than in a normal year. Therefore, in years of bad harvests the supply through the rationing system fell relatively more than the decline in production and, consequently, the demand for black market products rose even further. The price system, it turned out, increased scarcity in the official market in years

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5• The main representative of this interpretation is C. Barciela. See for example Barciela (1981a), Barciela (1981b), Barciela (1983a), Barciela (1983b), Barciela (1986) and Barciela and García González (1986).

6• Christiansen (2001). The same argument is suggested in Simpson (1995: 247).

7• Christiansen (2001) and Christiansen (2002).

when production was lowest, amplifying as well the difference between official and black market prices<sup>8</sup>.

Price controls, rationing and black markets not only occurred in Spain during the 1940s, but also in most Western European countries. More recently, the problem has appeared in a number of less developed countries, so economists have dealt with the question of how to manage a situation with deficient supply of basic necessities as a result of, for example, import restrictions or wars. The term "food price dilemma" is normally used to describe this scenario, the dilemma being that, while paying higher prices to producers is normally seen as a way to increase output, this measure can be politically unacceptable, due to the social consequences for the poorer part of the population.

Overcoming the food price dilemma by fixing prices for consumers and producers and introducing a rationing system tend to hinder an increase in production. Governments have tried to avoid this through the introduction of subsidies financed by the state budget, but this solution also contains pitfalls. A subsidy can become very costly if subsidized prices are effective for the whole of the population. At the same time, general price subsidies can lead to income redistribution where the wealthier part of the population obtains the largest economic advantages, due to higher consumption. Moreover, a vicious trade circle might appear where goods sold to the state are subsequently bought by consumer/producers at subsidized prices, and then resold to the state.

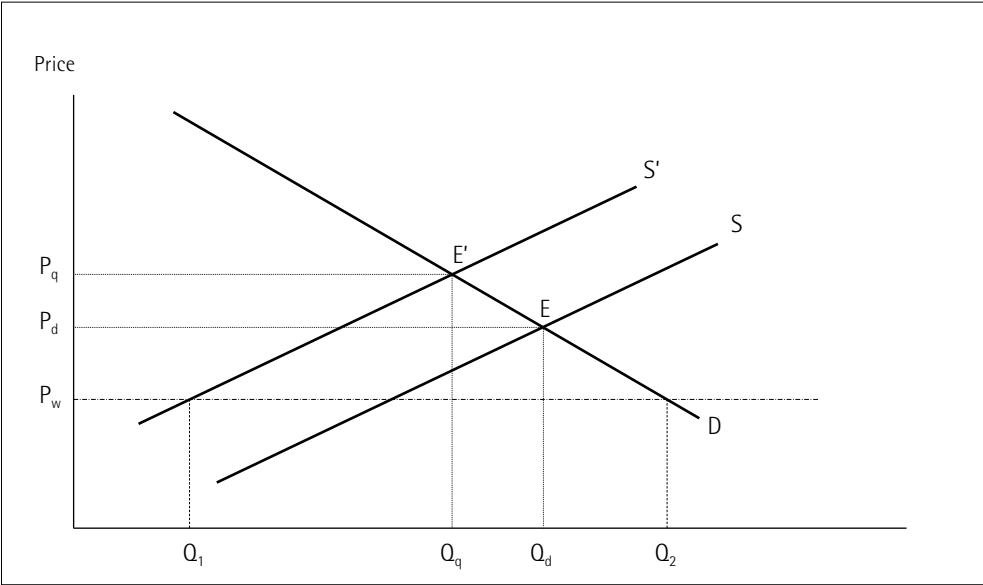
The final goal will often be to increase production and/or imports enough to escape the dilemma. One strategy that is sometimes pursued in relation to basic foodstuffs is to change the output composition, going from animal production to vegetable production, thus achieving a higher, but less diversified, calorific output from the same means of production. By attempting to solve this problem through food price control, politicians must deal with economic, social and political issues at the same time and therefore virtually any solution will be open to criticism. Nevertheless, it is possible to identify some guidelines for an effective way out of the dilemma. There are normally two main questions politicians are forced to deal with: First, how to cope with the black market, and, second, how to increase production to escape the shortage supply. In this article we analyze how the Franco regime reacted to the first question.

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8• Barciela (1983a: 288-291).

According to standard economics for goods with a positive price elasticity of supply and a negative price elasticity of demand, equilibrium in the market will occur at the point E where quantity  $Q_d$  reaches price  $P_d$  (Chart 1). If inputs are lacking, the supply curve will shift from S to S', and if the market is left to itself the result will be the creation of a new equilibrium E' where the quantity  $Q_q$  will be sold at a price  $P_q$ . Yet, after the Civil War the Francoist regime reacted by fixing prices at a level below the equilibrium price  $P_w$ , bringing about a supply shortage in the official market equal to  $Q_2 - Q_1$ <sup>9</sup>.

*Chart 1: The effects on supply and demand of a decline in output due to a reduction in inputs followed by fixing of prices below equilibrium*



Source: The figure and the description are standard textbook. The analysis of the development in Spain is from Christiansen (2001)

9• Please note that the level of  $P_w$  with respect to  $P_d$  is arbitrarily set in Chart 1, given that, depending on the crop and the year,  $P_w$  could be higher, smaller or equal to  $P_d$ . But the exact relation doesn't matter in this context, where the main point is that  $P_w$  was normally less than  $P_d$ .



In a situation like this, the distribution of the available produce can take place in two different ways. The option followed in Spain after 1939 was the establishment of a rationing scheme, which gave all consumers access to a minimum amount of the commodity at state fixed prices, but limited the amount that could be purchased legally. The alternative is a "First come, first served" model where consumers can buy the good according to, for example, time spent queuing or privileged access to information about where and when goods can be purchased. But often excess demand will drive some consumers to pay more than the official price, and some producers to break the law and sell part of their production in the black market.

Generally speaking, the consequences of price-fixing and the existence of a black market will vary widely depending on the nature of government action, market conditions, and the type of produce. Markets for basic foodstuffs are normally characterized by the following:

1) There are a large number of consumers and producers and total state control over the market is therefore unlikely.

2) With a large number of producers and consumers, individual members of both groups are likely to be price takers.

3) Even though the state cannot control all trade, it will normally find it necessary to maintain a system of punishment, to secure at least some supply in the legal market.

4) Demand for basic foodstuffs is normally price inelastic, given that a certain level of daily consumption is required for survival.

In such a situation, the government can decide that either all transactions taking place at prices higher than the official price are illegal, or that trading at higher than official prices is legal if the producer has first sold a predefined amount of output at the official price. Normally, the free market in this last system is called a "parallel market". Different ways of price-fixing can be combined with different penalty systems, and the economic effects of state intervention depend at least to some degree on which combination has been chosen.

Furthermore, it can be shown that output levels also depend on the design of the price control system. If the state sets prices below the free market equilibrium price but is unable to control the market completely, part of the output will be sold at a higher price than the official. Analytically, this can happen in two ways, which are not mutually exclusive. Returning to Chart 1, black market supply can either be the result of an increase in output beyond  $Q_1$  or, if only the quantity  $Q_1$  is produced, part

of it is sold in the black market. The last phenomenon is often described as "diversion" or "leakage". If diversion occurs, a black market will lead to a decrease in the supply in the official market, which does not happen in the first example<sup>10</sup>. I.e., the effects on total output of a black market depend on whether there is diversion or not.

First, if there is no diversion all black market supply is the result of an increase in output above  $Q_1$ . But even if diversion is possible, Dell has demonstrated that a parallel market will lead to an increase in output in comparison with a situation where trade outside the regulated market is not allowed<sup>11</sup>. This conclusion has an interesting and somewhat paradoxical consequence: if government wants to raise output, it would be an advantage to tolerate trade outside the regulated market if at least a part of the supply was not the result of diversion. Obviously, it would be difficult for a government to declare this in public, since encouraging the violation of its own market control system would erode its authority.

A second problem that arises from market regulation, while allowing a parallel market, is that the increase in aggregate output is not necessarily visible. Since part of the production is sold outside the official market, it often proves difficult to calculate changes in aggregate output. Furthermore, the influence of climatic conditions on the output of an agrarian industry also hinders this calculation. The visible point of comparison is aggregate output before and after the introduction/removal of a parallel market. The correct comparison, however, would be between output after the introduction/removal of a parallel market and the same situation without this change in policy, but this is a non-observable counterfactual.

When price-fixing is in effect, changes in total welfare in society also depend on the type of regulation and the supply response. Once again, a parallel market is beneficial for society. First, it can be shown that a price-fixing system, which prohibits all trade at non-official prices leads to a decrease in total welfare, when compared with a market without price-fixing, irrespective of the nature of the penalty system<sup>12</sup>. But the loss of welfare is smaller in a situation with a black market, as opposed to one where price-fixing is perfectly enforced<sup>13</sup>. On the other hand, a price-fixing

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10• Dell (1994: 18).

11• Dell (1994: 63-64 and 68-70).

12• Dell (1994: 68-69).

13• Dell (1994: 30).

system which allows trade at non-official prices in a parallel market, does not necessarily lead to a welfare loss when compared with a non-regulated market<sup>14</sup>.

The lack of a loss in welfare in the latter requires a number of conditions that are difficult to meet in the agrarian sector. First, it should be possible to calculate a compulsory quota that producers have to sell at the official price, where the official price equals the marginal cost of the last produced unit in the quota. This is not an easy task in a sector with a large number of producers, each with a different production function. The second condition is that the costs for farmers breaking the law should only be money transfers, and may not include real resources, which can lead to a decline in the production of other goods<sup>15</sup>.

Consequently, to analyze whether the Franco regime adequately coped with the black market, the sources should help us answer the following questions about the situation in Spain from the 1940s to the early 1950s:

1) Was diversion possible in the Spanish agrarian sector? If there was no diversion, all black market supply would be the result of increased output beyond  $Q_1$  in Chart 1.

2) Was there a parallel market in Spain for agrarian production? A parallel market would –even if there was diversion– increase output compared to a situation where no trade was allowed outside the official market.

3) Was price-fixing perfectly enforced by the authorities? If that was the case, the result would be a loss of welfare for society.

4) If price-fixing was not perfectly enforced, a loss in welfare could be avoided under certain conditions.

a. The official price paid to the farmer had to be the same as the marginal cost of the last unit in the compulsory production quota. Was this the case in Spain during the 1940s?

b. Penalties should be money transfers only. Was this the case in Spain during that decade?

The following sections will provide answers to these questions through the analysis of the legislation and activities that concerned the *Fiscalía de Tasas* which was, as mentioned in the Introduction, at the same time prosecutor and administrative court for black market crimes.

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14• Dell (1994: 64-66).

15• Dell (1994: 64-66).

### 3. *The Legislation*

The first step is to analyze the Fiscalía de Tasas within the broader context of the Spanish jurisdictional system during the Civil War and the early post-war period.

The fact that the regime established a special institution to deal with black market crime might sound rather trivial. However, a closer look at the institutional position of the Fiscalía de Tasas reveals that its very nature was at odds with several basic jurisdictional principles common in democratic regimes, including the traditional division of powers. At the same time the Fiscalía de Tasas was related to other well known institutions of the regime, which dealt with the prosecution of political adversaries, such as the tribunals for "political responsibilities" and for "free masons and communism". This might be surprising, given the very different nature of the crimes: economic vs. political offences.

The Fiscalía de Tasas was created by law on September 30, 1940, but this was not the beginning of the regime's fight against black market crimes. During the Civil War the insurrectionists tried with harsh measures but limited success to keep inflation down. In the declaration of the state of war of July 28, 1936, article "e" extended military jurisdiction to "Los que tiendan a impedir o dificultar el abastecimiento de artículos de primera necesidad, eleven injustificadamente los precios de los mismos o de algún modo contribuyan a su encarecimiento"<sup>16</sup>. Infraction of legislation concerning production and commercialization of wheat was also placed under military courts in August 1937, and the offence was considered a "military rebellion" or "aid to a military rebellion", for which the maximum punishment was the death penalty<sup>17</sup>. Because of this, conditions for the defendants were seriously undermined in comparison with normal jurisdictional guarantees<sup>18</sup>.

16• Berdugo Gómez de la Torre (1980: 115).

17• As is well known, "military rebellion" was, in Francoist terminology, a perverse synonym for loyalty to the Republican government, against which the military coup of July 18, 1936 was directed.

18• In military courts people were judged in a summary process, with the defendant's lawyer being a military officer with less rank than the military judges, with little or no time for the defense to prepare the case, and with no possibility of appeal.

The use of military courts could to some degree be explained given the special conditions during the war. But even after black market crimes were regulated by law on October 26 1939, military jurisdiction prevailed<sup>19</sup> over black market crimes<sup>20</sup>, which still appeared to be linked to political offences:

*Las consecuencias naturales de toda iniciación de posguerra en orden a escasez y dificultades en la distribución de productos han venido acrecentadas en el país merced a la conducta antihumana de los dirigentes rojas, que, diciendo defender al pueblo, ordenaron cegar toda fuente de riqueza y abandonaron, por imperio de la anarquía en que se debatían, las labores en campos y fábricas. La presencia, en las circunstancias dichas, de casos repetidos de acaparamiento por gentes a quienes guía el egoísmo o el más criminal propósito de entorpecer la marcha normal de nuestra economía obligan a la publicación a la presente Ley, cuya justificación se advierte con la simple exposición de los hechos señalados<sup>21</sup>.*

By linking economic and political offences, maximum sentences for black market crimes increased: if hoarding was driven by a desire to disturb the national economy, punishment could be 20 years and 1 day to 30 years in prison or the death penalty. For less serious crimes the penalty included fines, closing of business, and prison.

Further legislation concerning black market activities was introduced on September 30, 1940, creating the *Fiscalía de Tasas* as a prosecuting and administrative court. It had the authority to confiscate goods, impose fines, temporarily close businesses, and send people to labor camps and prisons for a period of up to 1 year. This piece of legislation covered the violation of rules and laws concerning rationing, prices, production, transportation and commercialization of goods<sup>22</sup>. All cases taken

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19• Ley 26 Octubre 1939, (Jefatura del Estado). Acaparamiento, Article 9.

20• The law does not refer explicitly to "black market crimes", but to hoarding with the purpose of obtaining higher prices, unjustified increase of prices, falsified goods, low quality goods, and unjustified closing of business establishments.

21• Ley 26 Octubre 1939, Introducción.

22• This includes transportation within provincial borders without permission, as well as between provinces, the use of certain cereals and leguminous as fodder, threats against employees of the *Fiscalía de Tasas* as well as against those who have denounced black market activities (Article 9), buyers in the black market, and people who have helped potential buyers to get in contact with people selling in the black market (Article 10).

on by the Fiscalía de Tasas were then sent directly to the military courts, which decided whether the crime was also punishable according to the Law of October 26, 1939<sup>23</sup>.

Though already limited by the fact that cases were tried by military instead of civil courts, the legislation openly states as one of its main motives the elimination of legal protection to defendants.

*La persistencia en muchas provincias de abusos en la venta de artículos de primera necesidad, sujetos al régimen de tasas, y el aumento de la especulación en esta materia, con daño grave para el abastecimiento de las poblaciones y los hogares humildes españoles, exigen medidas de rigor que corten, de una vez, estas criminales maniobras que, de persistir, llevarían al hambre y la ruina de todos los sectores de nuestra Nación, imponen la ejemplaridad y la rapidez en la corrección de las infracciones, sin que en los trámites jurídicos puedan servir de escudo a los infractores, maestros en la argucias de perturbar o burlas a la Justicia con trámites o retrasos*<sup>24</sup>.

Moreover, the law on the Fiscalía de Tasas includes other exceptional elements, such as awarding those who denounced black market activities with 40 % of the fine collected<sup>25</sup>, considering black market activities a rebellion against the state if circumstantial evidence suggested that the purpose was to disturb the working of the economy<sup>26</sup>, and that an unjustified appeal against a sentence would lead to an automatic 50 % increase in the fine<sup>27</sup>.

23• Orden 11 Octubre 1940 (Presidencia). Fiscalía de Tasas. Aprueba su reglamento, Article 36.

24• Ley 20 Septiembre 1940 (Jefatura del Estado). Fiscalía de Tasas. Creación.

25• Ley 20 Septiembre 1940, Article 7.

26• Ley 20 Septiembre 1940, Article 13.

27• Ley 20 Septiembre 1940, Article 20. On filing a complaint, it was necessary first to pay both the fine and the 50 % increase; Orden 11 Octubre 1940, article 44. This set of legislation can only be seen as an opening for all kinds of arbitrary actions on the part of the Fiscalía de Tasas, due to the lack of protection for the accused, as well as by ordinary citizens, due to the economic award given to any who denounced black market activities. Moreover, given that minimum fines were set to 1.000 pesetas or 3 months in a work camp – for men – or in a prison – for women (Ley 20 Septiembre 1940, Article 4), the possibility of disproportionate sentences was obvious. The problematic nature of the legislation was further accentuated when the Law of January 4, 1941 made the Laws of October 26, 1939 and September 30, 1940 retroactive.

The legislation suffered a number of changes in the following years.

The Law of September 30, 1940 included an array of fines and other sentences, but in spite of the rather high level of minimum sentences, they were further strengthened twice. This was done first in June and again by Law of October 16, 1941, where it was determined that all those sentenced for black market dealings related to hoarding and hiding of goods, the illegal selling of food and fodder regulated by the state, coal for domestic use, medicines, as well as cloth and shoes of ordinary quality, should receive the maximum penalty described in the Law of September 30, 1940<sup>28</sup>. The reason for this measure can be found in the introduction to the law, where the black market is still seen as a serious problem, even though the *Fiscalía de Tasas* in its first year of existence had sent more than 5.000 persons to labor camps, and made fines for a total of more than 100.000.000 pesetas. Moreover, military courts were to have a special section dealing with black market crimes only<sup>29</sup>.

At the end of 1942, legislation was partially normalized. Cases were no longer automatically sent from the *Fiscalía de Tasas* to the courts, but only when it considered the crime punishable according to criminal law, and civil courts received the jurisdiction, except when the crime was considered a case of military rebellion<sup>30</sup>. In spite of this gradual normalization of the legislation, Lanero Táboas found clear indications of a continued political interference in jurisdictional system related to black market crimes. First, because the civil courts used for the trial of black market crimes were the "Juzgados Especiales de Abastecimientos", with judges designated directly by the Ministry of Justice<sup>31</sup>. Second, because a significant number of judges, prosecutors et cetera were at the same time performing jurisdictional-military work and/or had a track record from military courts, i.e. were politically trustworthy people from the point of view of the regime<sup>32</sup>.

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28• Ley 16 Octubre 1941 (Jefatura del Estado) *Fiscalía de Tasas*. Acaparamiento. Aumenta rigor de sanciones. Modifica Ley 24 Junio 1940, Article 1.

29• It is not clear whether this brought on the saturation of military courts, or if there was a decline in the number of black market crimes.

30• Ley 11 Diciembre 1942 (Jefatura del Estado). Delitos de abastecimientos. Competencia de la jurisdicción ordinaria para juzgarlos.

31• Lanero Táboas (1986: 341).

32• Lanero Táboas (1986: 375-376).

The legislation suffered minor changes again in March, July, August and September 1946, as well as in March 1947. Most important is the Law of August 30, 1946 which regulated procedural issues in the October 26, 1939 legislation. Among other things, the law established that cases would now only be brought to the civil courts when asked for by the *Fiscalía Superior de Tasas*<sup>33</sup>. For defendants, the situation was still precarious. In fact, the Law of September 27, 1946 stated that if someone had been convicted for black market crimes, any increase in fortune since April 1, 1939 was automatically attributed to illegal economic activities and, therefore, was to be confiscated by the state until proven otherwise<sup>34</sup>. Finally the Law of March 14, 1947 extended the possibility of confiscation to include vehicles, animals and other goods used for the action which constituted an infraction of the law<sup>35</sup>.

In all, the laws regulating black market activities in Spain during the 1940s and early 1950s had a number of elements not normally found in law concerning economic crimes. These included an administrative process with limited protection for the defendant, the risk of double punishment for the same crime, military jurisdiction up to 1942, retroactive legislation, cases of reversed burden of proof, as well as the risk for a disproportionate relation between crime and punishment<sup>36</sup>.

#### 4. *Supreme Court Sentences*

Although limited in number, the cases brought before the *Tribunal Supremo* and the *Consejo Supremo de Justicia Militar* allow us to analyze how these laws were

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- 33• Decreto-ley 30 de agosto 1946 (M.º Justicia) Delitos de abastecimientos. Normas legales y procesales para su represión, Article 10.
  - 34• Decreto-ley 27 septiembre 1946 (Jefatura del Estado). Delitos de abastecimiento. Investigación de fortuna de responsables de estos delitos, Articles 4 and 5.
  - 35• Decreto-ley 14 de marzo, 1947 (Jefatura del Estado). *Fiscalía de Tasas*. Modifica apartado A) del artículo cuarto de Ley 30-9-40; incautación de animales, vehículos, etcétera, Article 1.
  - 36• Consequently, Berdugo Gómez de la Torre reached the conclusion that the legislation for black market activities was of a repressive nature and, hence, similar to that concerning political opponents to the Franco regime, such as the Law of Political Responsibilities, the Law of the Repression of Free Masonry and Communism, and the Law of State Security. Berdugo Gómez de la Torre (1980).



applied<sup>37</sup>. The cases tried by these two authorities are interesting given their fundamental status, but also because they sometimes involve large quantities of goods.

Between 1940 and 1954<sup>38</sup>, 19 cases were sentenced by the Tribunal Supremo or the Consejo Supremo de Justicia Militar<sup>39</sup>. These cases span different degrees of offences: from illegal price increase, to disturbance of the rationing system<sup>40</sup>, hoarding, disturbance of the national economy and, finally, military rebellion.

Cases are divided in two main groups: those concerning simple price increases, which was looked upon relatively lightly, and hoarding, disturbance of the national economy and military rebellion, which were severely punished<sup>41</sup>. The difference between illegal price increase and hoarding was established in case 19, depending on whether the owner of the goods was the legitimate (illegal price increase) or not (hoarding).

| *Table 1: Relation between offences and prison sentence*

Type of offence	Case number (see Appendix 1)	Prison sentences
Absolved	9, 10, 11	
Illegal prices	1, 2, 3, 5, 6, 8, 13	1 month † 1 year
Disturbance of rationing system	15, 17	26 months † 10 years
Hoarding	1, 5, 12, 13, 14, 16, 18, 19	6 years † 12 years
Disturbance of national economy	2, 5	2 months † 12 years
Military rebellion	7	8 years † 30 years

37• These sentences are reproduced in the Aranzadi Repertorio de Jurisprudencia. All cases mentioned in Aranzadi between 1939 and 1943 were brought before the Consejo Supremo de Justicia Militar, while from 1944 onwards it was the Tribunal Supremo, which was in charge of the cases.

38• Although the case was sentenced in 1954, the crimes under investigation took place between 1942 and 1947.

39• A short description of the cases can be seen in Appendix 1.

40• Although this definition is not found in the laws concerning the black market, it is used in some of the sentences. By exclusion, it is likely to refer to illegal prices and non authorised transport.

41• Please note that some of the convicted were sentenced for more than 1 crime, which partly obscures the picture. The Law of October 26, 1939 covered both hoarding (S1) and price increases (S3). The case involving "military rebellion" is somewhat special, given that it was an interim civil governor that was accused.

In a number of cases the prosecutor tried to establish a criminal liability for minor cases, but these were not accepted by the courts, which ruled that the fines imposed by the *Fiscalía de Tasas* were sufficient penalization<sup>42</sup>. In addition, it seems that during the early 1940s the prosecutors sought to get more offenders sentenced for having made black market dealings which affected the national economy<sup>43</sup>.

Finally, it must be pointed out that, in 4 cases, there are explicit and positive references to the political ideology of the prosecuted, which must be supposed to have had a favorable influence on the severity of the sentences. On the other hand, only the case which involved an interim civil governor includes an explicit reference to the political position of the defendant that must have had a negative impact on the sentence.

In all, the records from the *Consejo Superior de Justicia* and the *Tribunal Supremo* show that jail sentences given to people caught in large scale black marketing were severe. The case of the interim civil governor receiving a sentence of 30 years might be atypical, but those judged for hoarding still received between 6 and 12 years in prison. However, given that the black market continued to be very significant throughout the 1940s, the deterrent effect of this jurisdictional practice appears to have been limited. This can probably be explained by a combination of 4 factors. The first could be that there was a limited risk of being caught. The second possibility is that although punishment was severe, the potential gains from black market trade were so large that it was considered worth taking the risks. The third option is that the nutritional situation for at least a part of the population was so desperate that trading in the black market was the only way to secure physical survival. Finally, the situation surrounding the rationing system during the 1940s could be one of corruption, involving sectors of the police, the civil guard, civil servants of the *Servicio Nacional de Trigo* and the *Comisaría de Abastecimiento y Transporte*, as well as people connected to the political establishment of the regime, all of which were more or less immune to the officially declared persecution of black market trade.

In sum, analysis of the legislation gives the impression of a regime that, especially during its early years, tried intensely to enforce its price fixing policy, creating a jurisdictional system which offered little protection for the defendants, and the death penalty, no less, as maximum sentence. However, two facts alter this picture: the jurisdictional system was gradually relaxed and, in spite of the draconian nature of the maximum penalty, the deterrent effect was clearly insufficient to prevent the exis-

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42• See cases 9, 10 and 11.

43• Se cases 1, 3, 4 and 6.

tence of a thriving black market. As we saw in Section 2, the non-enforcement of price regulation was an advantage from the point of view of social welfare, but it is also likely that the social coherence of society as well as the general perception of justice was negatively affected by these circumstances.

## 5. *The Cases from the Fiscalía Provincial de Tasas in Teruel*

As mentioned in the Introduction, it appears that Teruel is the only place where an archive from Fiscalía de Tasas has survived. In spite of this limitation, the analysis of the data provides answers to the questions stated in Section 2. There are 9.766 records from Teruel's Fiscalía Provincial de Tasas dated from October 1940 to December 1953<sup>44</sup>, but unfortunately this is not the complete archive<sup>45</sup>. The fact is that with the exception of 7 records, there are no entries for people with surnames between "Gómez y Gil" and "Moliner Alcañiz"<sup>46</sup>. Each record consists of a double-sided index card, with space for the person's name, company or institution involved in black market dealing, age, address, place of birth, occupation, civil status, nature of the crime, goods involved and their amount, amount of goods confiscated, fine or prison sentence, and information on whether the fine was paid or when the person entered and left prison. For a number of records, however, one or more of these pieces of information are not present due to negligence by the people who filled out the records.

Of the cases, 8.062 concern men, 1.665 concern women, and 39 do not refer to physical persons. However, in approximately 2.100 cases the surnames and initials are identical with a least one other case<sup>47</sup>. It appears that approximately 25% of these

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44• Fiscalía Provincial de Tasas de Teruel: *Fichas de los sancionados por la Fiscalía Provincial de Tasas y multas que se les han impuesto* (1940-1953), Archivo Histórico Provincial de Teruel, Boxes 57-68.

45• The Fiscalía de Tasas continued to work after 1953 and the archive also contains records for later years. However, from 1954 on, cases involve smuggling and other forms of illegal economic activity not related to black market trade, so they will not be considered in this article.

46• Presently, the archive is ordered chronologically by year, and then by last name. The pattern in the absence of records could indicate that the archive was originally ordered only by last name.

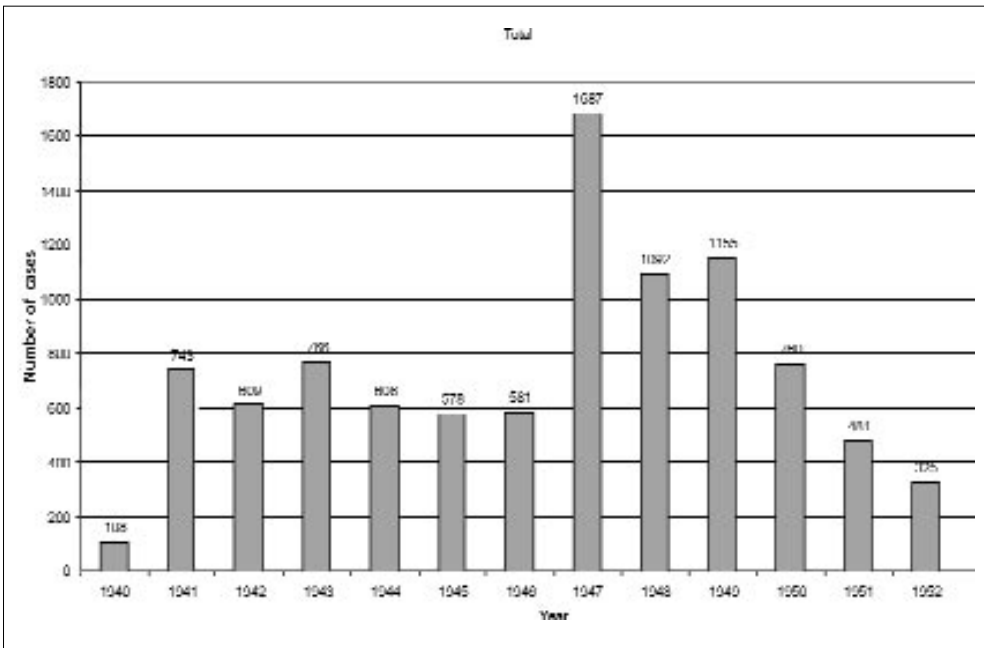
47• In the original index cards, both first names and surnames are given. However, to save time when filling the information into an electronic database, only the initials of the first names were registered.

2.100 cases are different people with identical surnames and initials. This means that about 1.500 cases involve people who were caught at least twice between 1940 and 1953, and consequently, the 9.766 records cover close to 9.000 different people, companies and institutions.

One of the questions raised in Section 2 of this article was whether the Franco regime effectively tried to enforce legislation regarding price and distribution of products subject to rationing. In Section 3 we found that after the early 1940s penalties were relaxed and there was a gradual - although never complete - normalization of the jurisdictional system in favor of the defendant. The records from the archive of the Fiscalía de Tasas paint a somewhat similar picture. The number of cases per year was relatively stable between 1941 and 1946, sharply increased in 1947, and then gradually declined in the following years (Chart 2).

Although there is no confirmation due to the absence of similar sources from other provinces, it is likely that the 1947 peak was a local phenomenon in Teruel. The increase in guerilla activities in Teruel made the political situation in 1947 very tense.

Chart 2: Number of cases per year



The arrival of Cornel Pizarro as Civil Governor in the province in February 1947 led to a sharp increase in military combat against the anti-Franco guerrilla, which included the declaration of a state of war in the province, the introduction of a curfew, and other limitations on the free movement of people<sup>48</sup>.

The interpretation that relates the increase in black market cases with intensifying military combat against the guerrilla is supported by the evolution of penalties imposed on those caught in black market activities in Teruel. If the sharp increase in the number of records for 1947 was mainly the result of a change in the effort to combat black market activities, there would probably be a similar change in the harshness of penalties, but that does not appear to be the case.

According to legislation, the *Fiscalía de Tasas* could send people to prison or a labor camp, but this was hardly ever done. Only 259 of the 9.766 records state that the convicted person was sent to a prison or a labor camp<sup>49</sup>. Prison sentences were mainly given during the early 1940s, and females are heavily over-represented (Chart 3). This does not reflect that these cases involved large amounts of goods, but quite the contrary.

Only 14 of the 176 females sent to prison were given fines of more than 1.000 pts, which until 1946 was the minimum quantity, and the amount of goods confiscated in relation to the cases was often relatively small<sup>50</sup>. Consequently, a hypothesis could be that the majority of prison sentences fell on women who, living in a precarious economic situation and perhaps the main income earner in the family<sup>51</sup>, were caught doing small scale black marketing. Being unable to pay the fines imposed on them, they were forced to go to prison. In other words, there is no relation between the number of prison sentences and the increase in the total number of cases for 1947.

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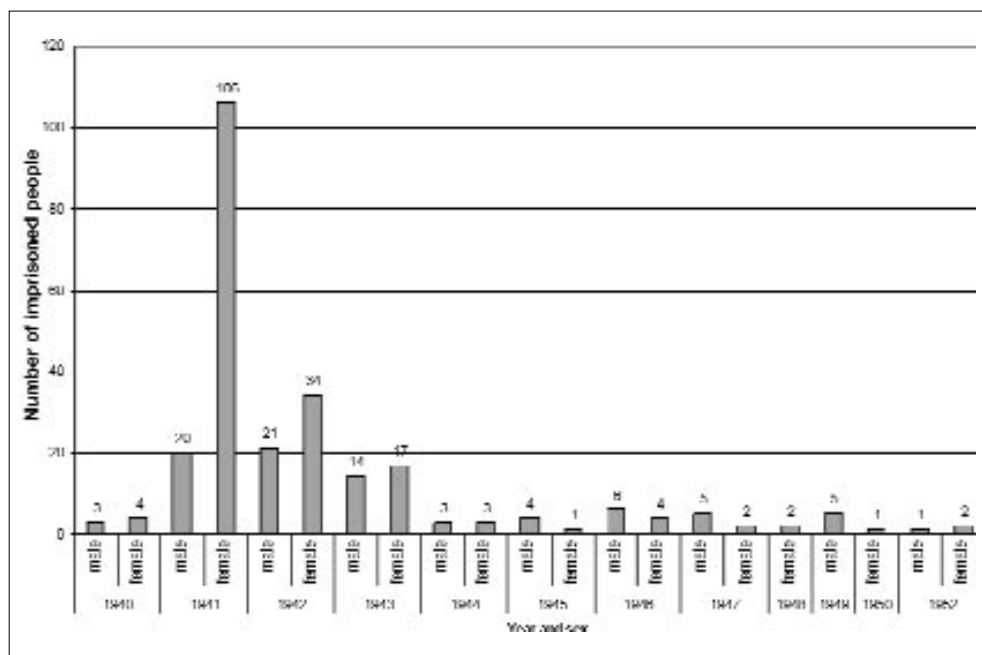
48• Yusta Rodrigo (2003: 169).

49• Obviously, given the dual penalty system were people convicted by the *Fiscalía de Tasas* were to some degree also judged by civil or military courts it is likely that more than those 259 persons in the end received a prison sentence.

50• Among the 112 cases involving women sent to prison, and where there is information on confiscated goods, we only find few cases where more than 40 kilos of wheat or 40 litres of olive oil was confiscated.

51• Out of the 176 cases where women were sent to prison, 88 were married, 40 were unmarried, and 35 were widows; there is no information about the civil status of the last 13.

Chart 3: Number of people sent to prison/labor camp (by year and sex).

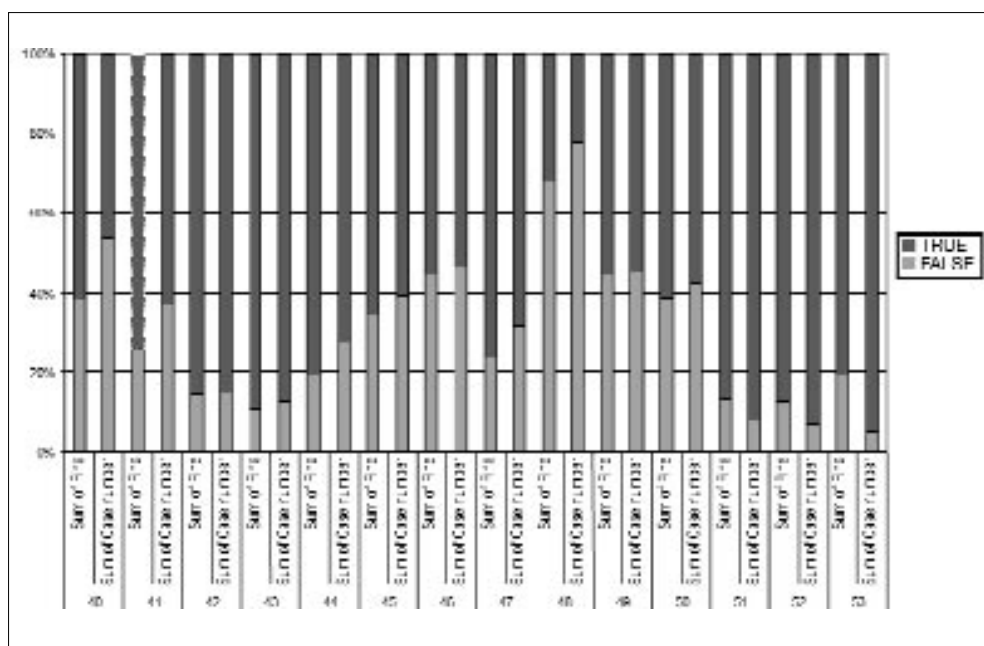


Concerning the evolution of the fined amounts, 3,493 (35.7 %) of the 9,766 records do not state that the fine was paid in spite of the fact that it appears on the records. The yearly variation in the relative number of fines that are not registered as paid is rather large and, interestingly, this value decreases sharply in 1947 (Chart 4). This would indicate a stricter pursuit of people involved in black market trade, at least in 1947, were it not for the evolution of the quantity of the fines. In current pesetas, the level of the fines is quite erratic over the years, due to a number of conflicting tendencies. With only three exceptions, the minimum fine was 1,000 pts between 1940 and 1945 and between 1941 and 1946 close to 80 % of fines were 1,000 pts. From 1947 the size of the fines was more diverse, with the number of fines at 1,000 pts oscillating around 30 % of the total (Chart 5). Although the relative number of small fines is higher in the latter part of the period, the average of the fines in current prices oscillates quite a lot, and reaches its highest level in 1951.

However, given the large inflation in Spain during the 1940s and early 1950s, the picture is significantly different when fines are deflated with the price deflator for

agriculture (Chart 5)<sup>52</sup>. In fact, it is obvious that the level of fines in constant pesetas was lower in the second part of the period than in the first part, and the lowest average in constant prices is found exactly in 1947. Consequently, it is apparent that the increase in the number of cases in 1947 was not the result of a tougher stand on black market crimes.

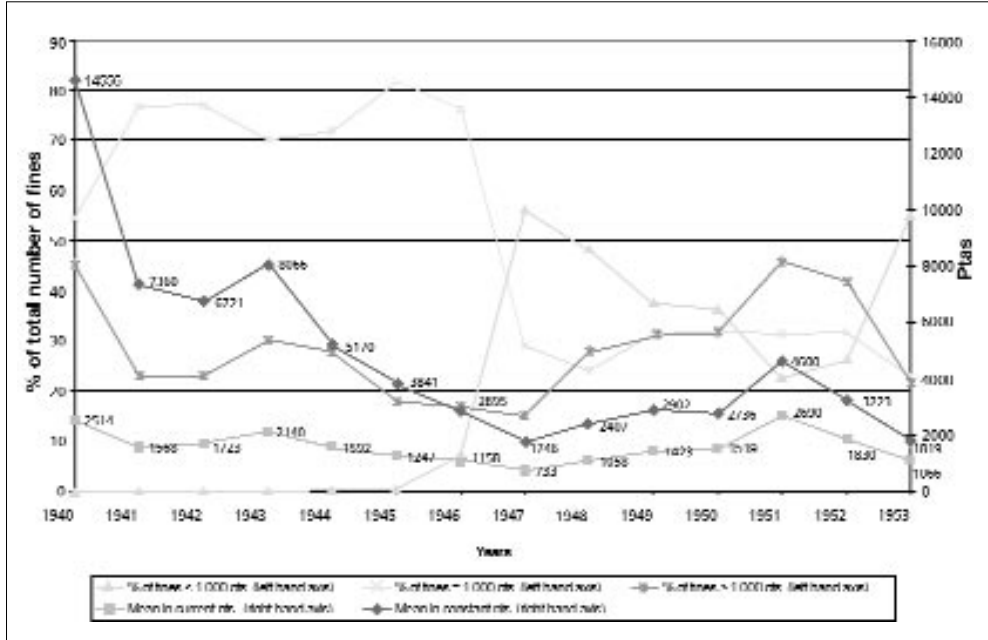
Chart 4: Relative distribution (in number of cases and in pesetas) of paid (TRUE) and un-paid (FALSE) fines per year.



In sum, it does not appear that the Franco regime had the ambition to strictly enforce its price fixing policy. The level of activities of the Fiscalía de Tasas was relatively stable during the first half of the 1940s, and the increased activity in 1947 was not accompanied by a similar increase in penalties, but quite the contrary. This gra-

52• The deflated level of the fines was obtained by deflating the size of the fines in current pesetas by "Price index in agriculture, forestry and fishing" from Prados de la Escosura (1995).

Chart 5: Development of black market fines in Teruel, 1940-1953



dual relaxation of the control and severity of the penalties at a local level is parallel to the development found in the legislation and the jurisdictional system.

From the point of view of total welfare in society this was desirable. However, it still can not be concluded that the intervention system met the conditions identified by Dell which would, in theory, avoid a welfare loss by introducing price controls and rationing schemes. Although sentences consisted mainly of monetary transfers, paying farmers the marginal cost of the last unit in the compulsory production quota as an official price was a refinement that the intervention system most likely did not have. Consequently, intervention in the market caused social welfare costs, albeit declining as the intervention system was relaxed.

The question of whether diversion took place and, if it did, what its magnitude was is very difficult to answer. Firstly because the large number of articles sold in the black market makes it difficult to generalize on this point. Another problem is that an obvious way to look at the problem would be to analyze the degree of fulfillment of



compulsory production quotas for the farmers. If the farmer did not comply with the production quotas and there was a black market, this could imply that diversion took place. However, an analysis along these lines implies that the production quotas were set to a level where marginal costs of the last produced unit equaled the price paid by the state to farmers. In any case, it can not be assumed that these conditions were fulfilled, given the way official prices were fixed and how production quotas were distributed<sup>53</sup>.

A closer look at data from various sources gives a hint about the attitude of the institution towards diversion. Table 2 shows the distribution of cases found in the archive of the *Fiscalía Provincial de Tasas* divided in 12 different categories<sup>54</sup>. Table 2 shows that only 657 cases involving non-fulfillment of production quotas were found in the archive, but it is highly unlikely that this number includes all those fined for this infraction. In 1951 alone, the central office of the *Servicio Nacional de Trigo* ordered no less than 2.322 farmers in the neighboring province of Cuenca to pay a fine for non-fulfillment of the production quota. Not only was this number far larger than the figure from the archive of the *Fiscalía de Tasas* in Teruel, but the total number of farmers who had not fulfilled their production quota in Cuenca in 1951 was 19.021<sup>55</sup>.

The figures from Cuenca reflect that, at least in the early 1950s, the general policy was to fine all farmers who owned more than 1.000 kilos of wheat, while those owing less were discretionally fined by the *Servicio Nacional de Trigo* and the *Fiscalía de Tasas*<sup>56</sup>.

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53• Production quotas were distributed to farmers in the following way. First, the Ministry of Agriculture made a provincial distribution of the quotas. This was followed by a distribution at a village level, made by the provincial office of the Ministry of Agriculture. Finally, the *Junta Agrícola* in each village distributed the quotas among the farmers. Christiansen (2001), pp. 171-172. This procedure situated the local political and economic elite, which normally dominated the *Junta Agrícola*, in a position where it was possible to make a socially unfair allocation of the production quotas. An example of this practice can be found in Bretón solo de Zaldivar (2000), pp. 108-121.

54• Please note that in 787 of the cases, there is no indication of the nature of the crime. In 19 cases there were 3 different violations of the intervention system, and in 1.162 cases there were 2 different violations of the intervention system. Consequently, the number of offences listed in Table 2 is higher than the total number of cases.

55• Christiansen (2001: 177).

56• Christiansen (2001: 65).

*Table 2: Distribution of crimes on categories*

Nature of crime	Number	% of total
Illegal transport of goods	3.870	35
Illegal grinding	1.542	14
Illegal selling of goods	1.484	14
Illegal interchange of goods	1.040	9
Unfulfilled production quota	657	6
Undeclared harvest	640	6
Selling at illegal prices	511	5
Illegal possession of goods	319	3
Unfulfilled sowing quota	111	1
Fraud with rationing cards	3	0
Others	3	0
Blanks	787	7
Total	10.967	100

This means that, although just 657 farmers punished in Teruel in 13 years for the non-fulfillment of production quotas is unlikely, this type of offence was generally not persecuted during the early 1950s. Furthermore, it seems to be in line with the rulings of the Supreme and Military Supreme Courts mentioned earlier, where a clear distinction was made between people judged for hoarding and people only convicted for selling at illegal prices, depending on whether the offender was the legal owner of the produce or not. Consequently, since minor infractions of non-fulfillment of production quotas were normally not punished, it cannot be ruled out that diversion took place in the agrarian sector during the 1940s.

This interpretation is supported by the reactions from farmers to a change in legislation in 1948/49. The year 1948 saw the legalization of selling wheat grown on lands classified as "improved land" at freely negotiated prices to certain industries and public institutions. From 1950 on this was extended so that farmers could sell wheat at freely negotiated prices to consumers, once they had fulfilled their compulsory production quota. This change led to a sharp increase in the share of wheat that was sold through the legal system, either at state fixed prices or at freely negotiated prices,

even though the 1950 harvest was similar to that of 1949<sup>57</sup>. In other words, this indicates that at least for wheat, diversion was important prior to 1950 and, therefore, black market supply was not necessarily the result of an increase in production beyond the point where the official price matched the marginal cost for the farmer of the last produced unit.

Furthermore, the introduction of a parallel wheat market appears to have been beneficial in a number of ways. It improved official knowledge about the size of the harvest, farmers were able to receive better offers than the official price without running the risk of punishment, consumers could decide prices and distribution of the wheat they bought, and total output would increase in comparison with a situation with no parallel market.

The archive of the *Fiscalía de Tasas* seems to suggest that its policy of poorly enforcing legislation concerning price regulations, rationing, production control etc. was intentional. As was also the case at a national level, punishment gradually slackened over the years, prison sentences disappeared and fines became smaller when inflation is taken into account. The sharp increase in the number of cases in 1947 appears to be the result of the militarization of Teruel due to intensified guerrilla activity, rather than a change in strategy towards the black market. This gradual relaxation of the system of intervention was an advantage from the point of view of social welfare.

But there were also other aspects where the system of intervention could have been improved. Based on existing evidence, it seems probable that diversion took place and consequently a part of the black market supply was not the result of production beyond the point where the official price paid to the farmer equaled the marginal costs of the last produced unit. Furthermore, the organization in the distribution of production quotas makes it unlikely that the official price paid to the farmer was equal to the marginal costs of the last produced unit within the production quota. Finally, the introduction of a parallel market in 1950 was a clear improvement of the system of the intervention, but its introduction could and should have taken place much earlier.

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57• Christiansen (2001: 85-87). People who wanted to buy wheat in the parallel market had to refrain from buying through the rationing system. However, within a household it was possible to decide how many people who were attached to each of the systems, making it possible to set the average price for wheat according to the income level of the household and the opportunity costs of buying through the rationing system.

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## 6. Conclusions

Through an analysis of the working and rules governing the repressive system used to combat the black market, this article has shed new light on how the Franco regime reacted to its emergence. It has been proven that legislation concerning the punishment of black market activities was initially characterized by severe harshness, limited protection for the defendant, the risk of double punishment for the same crime, military jurisdiction, retroactive legislation, cases of reversed burden of proof, the risk for a disproportionate relation between crime and punishment, as well as the linking of black market activities with political opposition to the Franco regime. Afterwards there was a gradual, although never complete, normalization of the jurisdictional system. While severe sentences were indeed handed out by the Supreme Court and the Supreme Military Courts, the relatively limited activities of the *Fiscalía de Tasas* at a local level indicate that black market activities were, at least to some degree, tolerated within the administrative and jurisdictional system of the regime. While this was an advantage from the point of view of social welfare, in contrast with strict enforcement of legislation concerning production and consumption of a large number of goods, the system continued to have serious flaws. Among these were the deficient distribution of production quotas, the possibility of diversion, and the belated introduction of a parallel market.

Initially, the assumption was made that post-war production of a number of basic necessities was hindered by external constraints on the Spanish economy. The present analysis has demonstrated that social welfare was further reduced by the working of the control system. But as long as the initial assumption is accepted, it's an improvement in its organization, rather than the elimination of the state intervention system used by the Franco regime, that was the right alternative.

However, it should also be noted that the present article has focused on the visible part of the state actions with respect to the black market. As mentioned above, a fundamental part of the legislation was that it included elements that are normally not found in law concerning economic crimes within democratic regimes. This made the position of the defendant complicated, but it could also allow some people to escape punishment or receive relatively light sentences due to extra-jurisdictional cir-

cumstances, such as political ideology, social status, or personal connections of the defendants.

These extra-jurisdictional circumstances can be difficult to identify, but nevertheless examples have been found in the source material. In some of the cases brought before the Tribunal Supremo and the Consejo Supremo de Justicia Militar there are explicit references to the political ideology of the defendants, and farmers who had not fulfilled their production quotas were to some degree fined on the basis of discretionary decisions taken by the administrative system. Given the Francoist vision of women's role in society, it is also possible that the strong over-representation of women among those sentenced to imprisonment is an example of extra-jurisdictional circumstances that influenced the action of the penal system.

Since large gains could be made on the black market<sup>58</sup>, the access to a privileged treatment by the control system would be of uttermost importance. In a regime where the political views of the defendant influenced the severity of sentences given by the Supreme Court, it is more than likely that the day to day operation of the *Fiscalía de Tasas* and other related institutions served not only as a "normal" penal system, but also as a means for local economic and political elites to maintain social and political control over the community. Future investigations into these partly invisible aspects of the state actions towards the black market will give additional and important insights into the conditions in the agrarian sector in Spain during the 1940s and early 1950s.

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58• Descriptions of the relative magnitude of black market earnings on large scale farms can be found in Naredo (1981) and Pujol Andreu (1985).

### Appendix 1: Black market crimes between 1940 and 1953 where final sentences were made by the Consejo Superior de Justicia Militar or the Tribunal Supremo

Case n.º (Aranzadi n.º)	Year	Crime(s)	Remarks	General considerations by the court	Political considerations by the court	Law(s) applied	Sentence
1	1940 (1298)	Hoarding of goods worth 67,657 ptas	The sentence also covers illegal possession of firearm.	Illegal increase of prices, and hoarding, but not disturbance of the economy	The convicted had a good political record.	26 Oct. 1939, §§ 1 and 3	6 years and 1 day in prison, fined 300,000 ptas
2	1940 (1299)	Wholesale and retailing of cloth worth 288,074 ptas, at prices 25–50 % higher than official prices.	5 people (managers, sales managers and chairman) from commercial firms.	Illegal price increase in goods of primary necessity, with the purpose of disturbing the national economy		26 Oct. 1939, §3. Retroactively used instead of Declaration of State of War July 28, 1936.	Between 2 months and 1 day, and 1 year of prison + unspecified fines.
3	1941 (281)	Mainly the sale of flour and bran worth 6,067 pts, at official prices, for 11,154 pts	The prosecutor argued that it was a disturbance of the economy. <sup>59</sup>	Illegal price increase, but not considered a disturbance of the economy <sup>59</sup>		26 Oct. 1939, §3	Not stated
4	1941 (283)	Wholesale and retailing of goods at illegal prices		Illegal price increase, but not considered a disturbance of the economy		26 Oct. 1939, §3	Not stated
5	1941 (444)	Resale of goods at illegal prices and fraud.	The prosecuted were 1 employee from the Delegación de Abastos "A", 2 traders "B" and "C" and 2 other people "D" and "E".	Illegal price increase, but received the heaviest sentences, were judged for hoarding, selling at illegal prices, and disturbance of the economy. "D" and "E" were judged only for selling at illegal prices.		26 Oct. 1939, §§ 1 and 3.	"A", "B" and "C" received 12 years of prison + fine of 317,070 ptas. "D" and "E" received 6 months in prison + unspecified fine.

<sup>59</sup> The argument is that the quantity involved is insignificant compared to the size of the national economy.

6	Sale of flour at illegal prices	4 people were prosecuted, 3 of whom were judged for helping the fourth person.	Illegal price increase and aid to illegal price increase. Not considered a disturbance of the economy	26 Oct. 1939, §§3 and 7	Between 1 month + 1 day and 3 months + unspecified fine.
7	Fraud by an interim Civil Governor, an employee of the Secretaría de Abastos and 5 other people in relation to trade in beans, as well as fraudulent imposition of fines and secret commission.	The case of the interim Civil Governor is considered military rebellion while the 6 other accused are considered aid to military rebellion.	The case of the interim Civil Governor is considered grave, given his political post.	26 Oct. 1939, §13; §§ 237, 238 and 240 in Code of Military Justice.	The interim Civil Governor received 30 years in prison. The 6 others got 12 years and 1 day in prison: In 3 cases though it was reduced to 8 years in prison. The sentences could be increased by the civil courts.
8	Transport and reselling of foodstuffs - illegal prices.	The truck driver was absolved, since he was not aware of the illegal nature of the goods.	It is stated that the defendant is "de Buena conducta e ideología afecta al G.M.N."	26 Oct. 1939, §3	6 months in prison + 2.200 pts fine.
9	Hiding of goods and illegal grinding. 650 kilos of flour, 1.000 kilos of wheat, 2 "fanegas" of grinded carob beans.	The prosecuted was fined by the Fiscalía de Tasas, but absolved by the Military Courts for further penalties.	It is stated the defendant "es de inmejorable conducta pública y privada y adhesión al Glorioso Movimiento Nacional.		Absolved, since the crime is considered too small to require further penalty than that inflicted by the Fiscalía de Tasas.
10	During an inspection at a farm 2.872 kilos of wheat were found, of which 302 kilos were not declared beforehand to the SNT.	The prosecuted was fined by the Fiscalía de Tasas, but absolved by the Military Courts for further penalties.	It is stated that the defendant had previously sold goods at illegal prices.		Absolved, since the wheat unaccounted for could be due to a measurement error; or grain to be used for sowing.

Case n.º Year (Aranzadi n.º)	Crime(s)	Remarks	General considerations by the court	Political considerations by the court	Law(s) applied	Sentence
11 1943 (386)	A farmer was found to have fodder crops which had not been declared to the administration, but which were within the legal limits, if they had been declared.	The defendant was fined by the Fiscalía de Tasas, but absolved by the Military Courts for further penalties.				Absolved, since the farmer was entitled to the produce.
12 1944 (793)	Sub declaration of beans on two occasions in 1941 and 1942 – app. 9.000 kilos in total.		Considered hoarding of goods		26 Oct. 1939, §1	Not stated. Appeal by accused not accepted.
13 1947 (1001)	Hiding by a farmer of app. 3.000 kilos of wheat, and contract on sale of the goods at 400 % of official price.	The sentence also covers use of false identity in relation to the crime	Considered hoarding and selling at illegal prices.		26 Oct. 1939, §§1 and 3; § 322 in Código Penal	11 years, 4 months and 2 days of prison + 8 years of inhabilitation + 2.000 pts fine.
14 1950 (461)	Illegal transport of 4.000 kilos of wheat and falsification of documentation.	The sentence also covers falsification of documentation.	Considered cooperation in hoarding		26 Oct. 1939, §§1 and 7	Not stated. The 2 prosecuted are considered commission agents.
15 1950 (1140)	8 persons working in the Bakers Consortium in Madrid illegally bought and resold flour to the bakers in Madrid between 1942 and 1947	The defendants are in a separate case tried for other offences related to the same crime. The prosecutor appealed the original sentence, claiming that the crime should also be considered hoarding.	Considered a crime against the organization of the rationing system		Not stated, but likely to be – among others – 26 Oct. 1939, §§1 and 7	Between 2 years and 2 months, and 10 years of prison. The appeal by the prosecutor was not accepted, and the sentences not altered by the Supreme Court.



16 1953 (26)	Sub declaration of wheat harvest – 2.200 kilos. The prosecuted farmer was at the same time manager of a SNT storage house. Selling of the goods at prices between 160 % and 240 % of official prices.	Considered hoarding.	26 Oct. 1939, \$1	10 years and 1 day in prison + 37.500 pts fine. Appeal by defendant not accepted.
17 1953 (170)	Illegal transport of illegally bought wheat (9.100 kilos) and bran (5 sacs). The goods were confiscated by the Guardia Civil, but the defendant managed to convince the local mayor that the goods – once stored by the authorities – were exchanged with non-intervened goods and returned to the him.	The mayor and a third person were also convicted, but the appeal only refers to the owner of the goods under consideration. It is indicated that the defendant could have been convicted by 26 Oct. 1939, \$1, which would have been worse.	30 Aug. 1946, \$2	4 years in prison. Appeal by defendant not accepted.

Case n.º Year (Aranzadi n.º)	Crime(s)	Remarks	General considerations by the court	Political considerations by the court	Law(s) applied	Sentence
18 1953 (1823)	The defendant illegally bought, transported and grinded wheat, selling the resulting flour at illegal prices in packs with false labeling. Illegal transport included 4.000 kilos of wheat, 2.880 kilos of flour, and a further 4.728 kilos of flour was found labeled as "Tortilla vegetal".	Apart from this case, the defendant was fined 5.000.000 pts by the Council of Ministers - on behalf of the Fiscalía de Tasas.	Considered hoarding		26 Oct. 1939, §1	10 years and 1 day in prison + 118.500 pts fine. The original sentence was 6 years and 1 day in prison + 46.685 pts fine. Appeal was made by both the prosecutor and the defendant. The final sentence follows the argument of the prosecutor.
19 1954 (570)	The defendant was found driving a truck with 1.955 kilos of wheat, bought illegally and transported without permission.	The defendant was first sentenced for selling at illegal prices, but the prosecutor appealed, stating it was hoarding.	Considered hoarding		26 Oct. 1939, §§1 and 7.	10 years and 1 day in prison + 24.437,50 pts fine.

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