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Across Borders and Bodies: Inquisitorial Perspectives on Gender Diversity and Same-Sex Desire in Early Modern Spain and Mexico

By

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Abstract: This project explores how the Spanish and Mexican Inquisitions developed distinct approaches to gender diversity and same-sex desire during the early modern era. With a special focus on the period from the start of colonial society in 1492 to the beginning of the Spanish Baroque around 1620, it traces how Spain's post-Reconquista moral framework was reshaped through the colonial encounter with Indigenous peoples in New Spain. While the Spanish Inquisition often linked sodomy to questions of honor, the Mexican Inquisition increasingly treated it as a form of social deviance. In drawing on legal records, colonist travelogs, and theological writings, this study challenges the narrative that Europe was uniformly repressive while the Americas were inherently transgressive. By highlighting overlooked protoqueer figures on both sides of the Atlantic, this paper complicates dominant colonial myths and expands our understanding of how queerness, honor, and ethnicity intersected in the formation of Spanish imperial power.

Keywords: Early modern Spain, early modern Mexico, colonization, queerness, gender, honor, ethnicity, sexuality, statehood, and inquisition.

Introduction

On January 2, 1492, one of Europe's longest periods of intellectual and cultural exchange – known as the Iberian *Convivencia* (Coexistence) – came to an end.[1] This era concluded with the violent fall of the Muslim Emirate of Granada – the last remaining polity of the once mighty Caliphate of Al-Andalus – by the co-monarchs Fernando II of Aragón and Isabel I of Castilla.[2] From the moment Al-Andalus conquered southern Iberia in 711, the Christian kingdoms of the north launched a campaign to claim these lands for Christians.[3] This *Reconquista* (Reconquest), done in the name of the Christian God, had been completed, and Fernando and Isabel earned the title "*Las Monarcas Católicas*:" The Catholic Monarchs.[4] With the Iberian Peninsula now reunified, this new militant Catholicism remained as the monarchs sought to expand their evangelization efforts to new lands beyond the Iberian Peninsula. They recruited the help of *moralistas* ('Moralist' Catholic theologians) throughout the *Españas* ('Spains,' or the kingdoms of Aragón, Castilla, and Navarra that composed the composite monarchy) to target these non-Christian lands filled with 'pagan' *lacras* (plagues), pejoratively known as *lacrales* (lands of plagues and pestilence).[5]

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[1] While scholarship on the co-inhabitance of Jews, Muslims, and Christians in Al-Andalus has traditionally viewed their coexistence as one of great peace and tolerance, recent scholarship has depicted a much more nuanced view of this period that highlights that this peace was artificial, and during the Almohad dynasty, almost non-existent. See Joseph F. O'Callaghan, *Reconquest and Crusade in Medieval Spain* (Philadelphia, PA: University of Pennsylvania Press, 2013); David Nirenberg, *Communities of Violence: Persecution of Minorities in the Middle Ages – Updated Edition* (Princeton, NJ: Princeton University Press, 2015); and Bernard Reilly, *The Medieval Spains* (Cambridge, UK: Cambridge University Press, 1993) for additional information.

[2] Matthew Restall and Kris Lane, "Castile and Portugal" in *Latin America in Colonial Time, 2nd Ed.* (Cambridge: Cambridge University Press, 2018), 21-34.

[3] Restall and Lane, "Castile and Portugal," 21-34.

[4] It is important to note that the term "Reconquista" has been problematized in recent scholarship. While variations of the term existed within the Christian northern kingdoms in Iberia at the time of the Muslim conquest and an overarching ideology of 're-conquest' existed within these kingdoms, and is therefore not an anachronism, these kingdoms were formed after the invasion and never had land to 're-conquer' in southern Iberia. Rather, the literal term "Reconquista" and its conception as a single war was created by Castile in the 16th century. See Joseph F. O'Callaghan, *Reconquest and Crusade in Medieval Spain* for an exhaustive analysis of the term and its medieval and early modern ideological underpinnings.

[5] Federico Garza Carvajal, *Butterflies Will Burn: Prosecuting Sodomites in Early Modern Spain and Mexico* (Austin, TX: University of Texas Press, 2003), 1.

Southern Spain was covered by mosques, translation schools, and colleges – reminders of the 'lacras' that had once occupied the land for 781 years. The new Catholic leaders endeavored to restructure these existing institutions in line with Catholic ones by converting them into churches, monasteries, convents, and other religious institutions. One of the greatest of these mosques, the *Gran Mezquita de Córdoba* (Great Mosque of Córdoba), was converted into a Catholic church.[6] The Jews and Muslims that remained in Iberia were forced to convert to Catholicism to remain, and in doing so, they became identified under new categories as *conversos* and *moriscos* to separate these *Cristianos Nuevos* (New Christians) from the old bloodlines.[7] Those that refused to convert would later be forced to choose between two realities: expulsion, or death.[8] In this manner, the fall of Granada was not the end of the Reconquista, but instead, a turning point in the wars against Muslims and Jews that secured Christian hegemony in Iberia. While the physical reminders of Muslim rule would be quickly remedied, the spiritual, cultural, and intellectual remains of the old order were treated as suspect, and required reconquest too.[9] One of the greatest sins these moralistas targeted was the sin of many names: *sodomía* (sodomy), *contra natura(leza)* (counter natural), *el pecado nefando* (the nefarious sin), or *el pecado silencioso* (the silent sin).[10] To those in the 21st Century, it would be broadly referred to as non-procreative sexual actions, especially same-sex sexual actions.

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[6] Heather Ecker, "The Great Mosque of Córdoba in the Twelfth and Thirteenth Centuries," *Muqarnas* 20 (2003): 113.
[7] Henryk Szlajfer, *Jews and New Christians in the Making of the Atlantic World in the 16th—17th Centuries: A Survey* (Boston, MA: Brill Publishers, 2023), 1-21.
[8] Henryk Szlajfer, *Jews and New Christians in the Making of the Atlantic World in the 16th—17th Centuries*.
[9] See Benjamin R. Gampel, *The Last Jews on Iberian Soil: Navarrese Jewry, 1479-1498* (Berkeley, CA: University of California Press, 1989); L. P. Harvey*, Islamic Spain, 1200 to 1500* (Chicago, IL: University of Chicago Press, 1990); and L. P. Harvey, *Muslims in Spain, 1500 to 1614* (Chicago, IL: University of Chicago Press, 2005) for information on how Jews and Muslims were treated within Iberia upon the immediate aftermath of the Reconquista, the deconstruction of their cultural, intellectual, and spiritual legacies, and their later expulsions.
[10] Zeb Tortorici, *Sins Against Nature: Sex and Archives in Colonial New Spain* (Durham, NC: Duke University Press, 2018), 64.

The Catholic monarchs understood Andalusi society as accepting of homosexuality – particularly male same-sex desire and same-sex pederasty. Francisco Garza Carvajal, a historian of who studies the persecution of queerness within the Spanish and Mexican Inquisitions, describes how Andalusi society fostered an environment of religious tolerance, thriving urban centers linked by dynamic trade networks, and a rural landscape marked by agricultural sophistication. Its people were notably cosmopolitan, and in some cases, displayed open expressions of same-sex desire.[11] Garza Carvajal highlights that it was customary for young Moros to be initiated into adulthood through sexual relationships with adult patriarchs, leading to a relatively permissive attitude towards same-sex desire across various segments of the culture.[12]

Garza Carvajal's claim about the nature of same-sex desire/practice and pederasty within Andalusi society is supported by hundreds of homoerotic poetries produced throughout its history that scholars have noted to be unique to Hispano-Arabic literature.[13] There are stories of Andalusian rulers murdering men that refused their advances, such as the story of Abd al-Rahman III's murder of Pelayo of Córdoba.[14] Additionally, male harems were not uncommon among the rulers of Al-Andalus.[15] This acceptance of homosexuality clearly presented some issues to the Christian monarchs who not only believed Islam was idolatry, but through knowledge of homoerotic literature and homosexuality among the Andalusi elite, also thought it to be inherently conducive to contra natura.[16] Therefore, after the fall of Granada, the next step

[11] Garza Carvajal, *Butterflies Will Burn*, 39.
[12] Garza Carvajal, *Butterflies Will Burn*, 39.
[13] See Louis Crompton, "Male Love and Islamic Law in Arab Spain," in Stephen O. Murray and Will Roscoe, *Islamic Homosexualities: Culture, History, and Literature* (New York City, NY: New York University Press, 1997); Robert Aldrich, *Gays y lesbianas, vida y cultura: Un legado universal* (Donostia-San Sebastián, Spain: Editorial Nerea, 2008); and Daniel Eisenberg, "El Buen Amor homosexual de Juan Ruiz," in José Blas Vega, *Los territorios literarios de la historia de placer* (Madrid, Spain: Huerga y Fierro, 1996).
[14] Daniel Eisenberg, "Homosexuality," in Encyclopedia of Medieval Iberia, ed. Michael Gerli (New York City, NY: Routledge, 2003), 398-9.
[15] Louis Crompton, "Male Love and Islamic Law in Arab Spain."
[16] Louis Crompton, "Male Love and Islamic Law in Arab Spain."

of reconquest and expulsion – the Inquisitorial targeting of protoqueerness and the reclamation of the hearts and minds of Muslims and Jews for Christianity – had to prevail in Andalucía. The *Council of Trent* also made Christianity in line to an anti-queer movement.[17] In consequence, the co-monarchs Ferdinand and Isabella founded the *Tribunal del Santo Oficio de la Inquisición* (Tribunal of the Holy Office of the Inquisition) in 1478.[18] It is important to note that this Inquisition only had authority over Christians, and therefore, while the Inquisition could not charge Jews, Muslims, or other religions for heresy, it could punish those conversos and moriscos who were deemed to have been "back-sliders" into their previous religions.[19] This punitive institution, often called the *Inquisición Española* (Spanish Inquisition), was actually two separate systems with different legalities: the *Inquisición Castellana* (Castilian Inquisition) and the *Inquisición Aragonesa* (Aragonese Inquisition).[20] This new *Castilian* religious-legal system would come to dominate most of Iberia for hundreds of years and try thousands of proto-queer peoples across Iberia.[21]

As Spain began to expand its empire across the Americas, its first mainland colony, the *Virreynato de Nueva España*, or the Viceroyalty of New Spain, was then subject to a variety of incipient inquisitions modeled after the Iberian ones. The first of these Inquisitions, the *Inquisición Indígena* (Indigenous Inquisition) specifically targeted heresy, idolatry, same-sex desire, and other 'un-Catholic' practices after the conquest of the Aztec-Mexica Empire in 1521

[17] While not explicitly denigrating homosexuality, the Council of Trent reaffirmed the importance of marriage and procreation, which implicitly reaffirmed intolerance of same-sex desire. See Jeremiah Donovan and Catholic Church Catechismus Romanus, *Catechism of the Council of Trent* (Burbank, CA: Legare Street Press, 2022), 373 for additional details.
[18] William Monter, *Frontiers of Heresy: The Spanish Inquisition from the Basque Lands to Sicily* (Cambridge, UK: Cambridge University Press, 2002), 3.
[19] Monter, *Frontiers of Heresy*, xii.
[20] Monter, *Frontiers of Heresy*, xii.
[21] See Robert C. Schwaller, *Géneros de Gente in Early Colonial Mexico: Defining Racial Difference* (Norman, OK: University of Oklahoma Press, 2016) for more information on how the Castilian legal system was transplanted, and adapted, to fit New World governance.

until reform in 1571.[22] It used local courts, which differed greatly in their approaches, punishments, and tolerance, and individual friars to target these actions rather than adopting an overarching formalized legal structure.[23] These emergent local courts and friars continued with the persecutory nature of the Inquisition adopted in Spain that had intolerance for heresy and unorthodoxy.[24] The formal *Inquisición Mexicana* (Mexican Inquisition) was established in 1571 under the vision of the Castilian Inquisition and primarily focused on heresy.[25] What set this Inquisition apart was the level of tolerance inquisitors extended towards Indigenous peoples. This marked a significant turn from the previous Indigenous Inquisition in that it focused on persuasion to convert and create new subjects for the Crown rather than pure extirpation. The 1569 Edict of Faith laid the foundation for the treatment of Indigenous peoples in the New World, in which the king wrote "that the inquisitors should never proceed against the Indians, but against the old Christians and their descendants and other persons against whom in these kingdoms of Spain is customary to proceed."[26] In theory, Indigenous peoples were exempt from being tried by this Inquisition as part of an effort to secure certain freedoms for Native Americans in exchange for what would be their gradual and inconsistent conversion and assimilation under Spanish authority. Of course, as in any colonial society, exceptions could be made on a whim of the colonizer's intent.

[22] J. Jorge Klor de Alva, "Colonizing Souls: The Failure of the Indian Inquisition and the Rise of Penitential Discipline" in Mary Elizabeth Perry and Anne J. Cruz, eds., *Cultural Encounters: The Impact of the Inquisition in Spain and the New World* (Los Angeles, CA: University of California Press, 1991), 3.
[23] J. Jorge Klor de Alva, "Colonizing Souls."
[24] J. Jorge Klor de Alva, "Colonizing Souls."
[25] Roberto Moreno de los Arcos, "New Spain's Inquisitions for Indians from the Sixteenth to the Nineteenth Century" in Mary Elizabeth Perry and Anne J. Cruz, eds., *Cultural Encounters: The Impact of the Inquisition in Spain and the New World* (Los Angeles, CA: University of California Press, 1991), 31.
[26] See Recopilación de las leyes de los reynos de las Indias (4 vols., Madrid, 1681), Lib. I, tit. 19. Read Ana María Splendiani, *Cincuenta años de la inquisición en el Tribunal de Cartagena de Indias* (Santa Fe de Bogotá, Colombia: Centro Editorial Javeriano, 1997) for further clarification of the laws present in this decree.

The Spanish, in this land of unknowns, carried with them this myth of the lacrales, now identifying the entirety of the Americas as a land of homophilic Indigenous peoples. The reason this concept of the lacrales, once applied to Muslim peoples in Spain and the eastern Mediterranean, was easily transportable to the New World has to do with how the Spaniards consistently compared Indigenous practices in the New World to the Moors. Hernán Cortés, in his travels across Mexico in 1519, consistently described the temples of the Mexica-Aztecs as "muy amoriscados" ("very Moor-esque") and uses the qualifier of "a manera de moriscos" ("in the manner of the Moors") to describe the customs of the Indigenous peoples.[27] This attempt to make the New World legible to conquistadors using the language and customs of the conquered in the Old World resulted in colonists creating such one-to-one comparisons, both in an attempt to justify conquest by extending Christian conquest to the New World, but also to blur the boundaries of the unknown by connecting them with the most recent 'foreign' peoples to be assimilated or expelled in living memory – the Moors.[28] In this manner, memory of the Moors and the subduing of both their "lacrales" and "lacras" during the Iberian conquest served as a template for understanding gender, sexuality, and race in the New World.

Before getting too far in this discussion of gender-diverse individuals and those who experienced same-sex desire, I want to emphasize a new term I find relevant to my research: protoqueer. Unlike the modern term queer, which carries associations of a cohesive community and shared political identity, the term protoqueer acknowledge the fragmented, temporal,

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[27] See Hernán Cortés' *First Letter to Emperor Charles V* (*Primera Carta de Relación de la Conquista de la Nueva España, Códice Cortés*), in Francis Augustus MacNutt, Fernando Cortes: His Five Letters of Relation to Emperor Charles V (Cleveland, OH: A.H. Clark, 1908), 162-3.

[28] See David J. Weber, *The Spanish Frontier in North America* (New Haven, CT: Yale University Press, 1992) and Ramón A. Gutiérrez, *When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality, and Power in New Mexico, 1500-1846* (Stanford, CA: Stanford University Press, 1991) for descriptions of conquistadors in the borderlands and northern Mexico comparing Puebloan kivas and other Indigenous sites and practices with Moorish customs.

localized, and culturally distinct nature of these historical experiences. It resists retroactively applying modern identity categories (e.g., gay, bisexual, transgender) to people who lived in times and places where such classifications did not exist, held different meanings, or used different and varied terminologies to describe themselves that evade formal definition. The term foregrounds both the presence of non-normative gender and sexual expressions in history and the historical discontinuities that complicate modern identification. In the case of studying sexual and gender diversity in early modern Spain and Mexico, this term will be often underpinned by contexts of Indigeneity (or early ethnoracial categorizations), heresy, and unorthodoxy. Therefore, where the term "queer" would be employed in discussions of gender, sex, and sexuality today, I substitute the term protoqueer to discuss these same concepts in this sociohistorical context of post-Reconquista Spanish society and colonial Mexican society in the early modern era.

In the early modern era, there were many terms used to refer to who would today be classified as gay, lesbian, bisexual, transgender, or gender fluid. These terms, among many, include "sodomía" (sodomy), "sodomita" (sodomite), "hermafrodita" (hermaphrodite), "pecado nefando" (the nefarious sin, referencing sodomy), and "contra natura" (counter-natural).[29] Some other terms include derogatory words like "mariposa" (butterfly), "mariquita" (ladybug), "maria/marica" (woman-impersonator), "amarionados" (another term for woman-impersonators), "bardaje" (berdache, or third-gender individuals), "plagas / pestes / bubas" (plagues, pests, and syphillic bubos), "bujarrona" (female bugger, or sodomite), and "nefastos / nefarios" (nefarious peoples or heinous people), among many others.[30] There were also many euphemisms for

[29] See Tortorici, *Sins Against Nature* and Garza Carvajal, *Butterflies Will Burn* for additional early modern terms for queerness.
[30] See Tortorici, *Sins Against Nature* and Garza Carvajal, *Butterflies Will Burn* for additional early modern terms for queerness.

sodomy, such as “para hacer tortillas” (to make tortillas, or to have same-sex intercourse), “parecer hombre o mujer” (to appear like a man or woman), “se acuesta con hombres o mujeres” (lies down with both men and woman), and “mover la matriz” (to move the womb, or to have a female orgasm).[31] The sheer number of these terms and phrases can make it difficult to discuss these individuals and these actions in the modern day. Many of these acts and identities overlap in many ways and must be discussed relationally rather than individually. Hence, where I do not directly quote these terms from within primary sources, I use the terms “same-sex desire,” “gender-diverse,” and “gender diversity” throughout this paper to emphasize the collapsing of all gender transgressive identities and non-heterosexual sexualities into the singular categories of “gender diversity” and “same-sex desire” which aligns more closely with early modern sentiments while still being digestible by modern-day audiences.[32]

My research will attempt to expand on the legacy of the “lacrales,” from their conception in Moorish contexts to their utility in the colonization of the Americas, to further connect the Spanish attempts at eradicating what I call “protoqueerness” in Mexico to the legacy of post-Reconquista militant Catholicism through its embodiment in the Spanish and Mexican Inquisitions.

In this thesis, I investigate how the legacy of the post-*Reconquista Inquisition* in Iberia contributed to divergence in how same-sex desire and gender diversity was understood both within Iberia and during the colonization of Mexico. My periodization begins in 1492, the year the Reconquista ended and Christopher Columbus landed in the New World for the first time, and ends in 1620 when the early colonial period of Latin American history ended and the start of

[31] See Tortorici, *Sins Against Nature* and Garza Carvajal, *Butterflies Will Burn* for additional early modern terms for queerness.
[32] The exception to these categories I use in my research is asexuality, which falls outside the scope of my research within this paper.

the *Baroque Period*, also known as the *Colonial Middle*, began.[33] In doing so, this paper illuminates how policing 'illicit sexualities' and 'gender transgressions' in Iberia were altered and iterated during the shift to post-Reconquista colonial society in both Spain and Mexico. I argue that as Spain colonized Mexico and founded the Viceroyalty of New Spain, this new focus on protoqueer Indigenous Mesoamericans contributed to the Mexican Inquisition diverging from the Spanish Inquisition's language on sodomy. Rather than speaking on honor, the Mexican Inquisition spoke about sodomites in terms of social transgression. This newfound focus on Indigenous peoples in the New World then contributed to the obfuscation of Spain's own protoqueers and the hypervisibility of New Spain's gender-diverse and homosexual population. In return, I also claim that how one acquired and acted with honor had just as much important in shaping gender roles as much as sex itself.

From Cross to Crown and Reconquista to Colony: Revisiting Queerness in Early Modern Spain and Mexico

Over the past few decades of historical research, there has been a rise in scholarship about the early queer history of colonial Latin America. Many of these scholars began to incorporate Queer Theory into their analysis, including Theresa de Lauretis' concept of *heteronormativity* – a worldview that establishes heterosexuality as the societal norm and places those with same-sex desire in a position of disadvantage since heterosexuality is privileged within this ideology. [34] Since Queer Theory is itself a recent creation, its usage in colonial Latin American history is still emergent and dynamic.[35]

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[33] Periodization based on Thomas H. Charlton, "Socioeconomic Dimensions of Urban-Rural Relations in the Colonial Period Basin of Mexico," essay, in *Supplement to the Handbook of Middle American Indians*, vol. 4, Ethnohistory (Austin, TX: University of Texas Press, 1984), 122–33.

[34] Theresa De Laurentis, *Queer Theory: Lesbian and Gay Sexualities* (Bloomington, IN: Indiana University Press, 1991), iv - xiii.

[35] Foundational works in Queer Theory include Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York City, NY: Routledge, 1990); Judith Butler, *Bodies That Matter: On the Discursive Limits of Sex* (New York City, NY: Routledge, 1993); Judith Butler, *Undoing Gender* (New York City, NY: Routledge, 2004);

Scholars from the early 2000s and 2010s began to discuss how Indigenous sexualities and protoqueerness were conceptualized among these groups and the Spanish alike. In the same generation, the connection between protoqueerness and the construction of shame began to be discussed, too. This comparison between conceptualizations of gender, sex, sexuality, and protoqueerness in Europe and in the Americas served as a template for scholars to understand both the synchronicities and disjointedness present in the encounter between these two diverse worlds. Some scholars that forefront the 2000s to 2010s generation of historiography on protoqueerness in colonial Latin America include Pete Sigal; Federico Garza Carvajal; Lynn Stephen; Ann Twinam, and François Soyer.[36] These historians sought to avert the legacy of cultural theft from settler colonialism by reintroducing "bygone" pre-colonial and early colonial views of protoqueerness. Pete Sigal, for example, argues that the Maya believed homosexuality was a sacred sexual relation intrinsic to communicating with their deities. The Yucateco Maya only changed their cultural views on protoqueerness to view these practices as shameful once the Spanish began to establish an Iberian Christian-based culture amongst them.[37] Shame, then, was

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Eve Kosofsky Sedgwick, *Between Men: English Literature and Male Homosocial Desire* (New York City, NY: Columbia University Press, 1985); Eve Kosofsky Sedgwick, *Epistemology of the Closet* (Berkeley, CA: University of California Press, 1990); Teresa de Lauretis, *Technologies of Gender: Essays on Theory, Film, and Fiction* (Bloomington, IN: Indiana University Press, 1987); Theresa De Laurentis, *Queer Theory: Lesbian and Gay Sexualities* (Bloomington, IN: Indiana University Press, 1991); Michel Foucault, *The History of Sexuality. Volume I: An Introduction* (New York City, NY: Pantheon Books, 1976); Michael Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (Cambridge, MA: Harvard University Press, 2000); Lauren Berlant and Michael Warner, "Sex in Public," Critical Inquiry 24, no. 2 (Winter 1998): 547–66; and Adrienne Rich, "Compulsory Heterosexuality and Lesbian Existence," in *Blood, Bread, and Poetry: Selected Prose 1979-1985* (New York City, NY: W.W. Norton, 1986).

[36] See Pete Sigal, *Infamous Desire: Male Homosexuality in Colonial Latin America* (Chicago, IL: University of Chicago Press, 2003); Federico Garza Carvajal, *Butterflies Will Burn: Prosecuting Sodomites in Early Modern Spain and Mexico* (Austin, TX: University of Texas Press, 2003); Lynn Stephen, *Zapotec Women: Gender, Class, and Ethnicity in Globalized Oaxaca* (Durham, NC: Duke University Press, 2005); Ann Twinam, *Public Lives, Private Secrets: Gender, Honor, Sexuality, and Illegitimacy in Colonial Spanish America* (Stanford, CA: Stanford University Press, 2000); and François Soyer, *Ambiguous Gender in Early Modern Spain and Portugal: Inquisitors, Doctors and the Transgression of Gender Norms* (Leiden, NL: Brill, 2012).

[37] Sigal, *Infamous Desire.*

a tactic of the Spanish colonial project to deter Indigenous peoples from their customs and attract them to Christianity instead.[38]

Lynn Stephen takes a similar approach and argues that the link between gender and sexuality within the colonial era makes it difficult to separate the two in historiography. Stephen writes that within the colonial Andes and colonial Mesoamerica, there was a "changing relationship among culture, class, and gender during the ongoing colonial conflict."[39] In this case, gender roles were generally understood within the frameworks of monogamy, patriarchy, and household labor in Spanish society. Sexuality, then, was used as a *force* to ensure men were virile and women were passive, among many other early modern delineations between man and woman.[40] For those that acted outside of these socially acceptable behaviors, they would often need to go confess their sins and admit their shame to a priest to begin to rectify their image in public and to God. As a result, Stephens claims sex then became naturalized into the category of gender roles in early modern Spain, and admitting shame, practicing restrained sexuality, and religious devotion served as way to affirm these gender roles.[41]

Within Indigenous societies in the Americas, however, certain nations held cultural understandings different from the Spanish colonial project that did not co-opt sex as inherent to one's gender and admit shame for this custom. Therefore, these peoples had alternate differentiations in labor roles that allow for gender diversity. The encounter between this multiplicity of systems among a variety of Indigenous peoples then leads to uneven understandings of gender, sex, and sexuality across colonial Latin America that require historians to investigate how the Spanish chose to interface with these Indigenous gender customs, if at

[38] Sigal, *Infamous Desire.*
[39] Stephen, *Zapotec Women*, 54.
[40] Stephen, *Zapotec Women*, 54-6.
[41] Stephen, *Zapotec Women*, 53-5.

all.[42] She claims that analyzing gender, sex, and sexuality as complementary in colonial labor organization but with slight nuances that depend on geography, peoples, and time across Mexico can develop a better view on how Africans, Indigenous Americans, and Spaniards defined these two concepts amongst themselves and in relation to each other.[43]

Although not explicitly touching on protoqueerness in early modern Spain and Mexico, Ann Twinam highlights that heteronormativity was culturally conditioned in the Spanish colonial project through honor.[44] In her research of illegitimacy in colonial Spanish America, Twinam touches on how elite men would get away with practicing bigamy and adultery based on their performance of masculinity and class.[45] Twinam brings forward that honor and masculinity were deeply intertwined and co-constituted each other. The elite man then represented the ultimate achievement of masculinity, honor, and class. She emphasizes that sexual transgressions were sometimes tolerated if the individual male held status, contributed to the Crown, and could maintain discretion.[46] Those that did not fulfil these three vital requirements were then shameful and did risk losing their honor and status – but for those who fulfilled these criteria – their honor could be maintained and their masculinity affirmed.[47]

This discussion of shame and the affirmation of masculinity is also present within Federico Garza Carvajal's book, which further discusses how the Spanish utilized shame to disavow Indigenous peoples from their protoqueer customs and touches on the myth of the "sodomitical indios," or homophilic Indigenous Mexicans. He argues that Spain's creation of the myth of Native Americans as "inherently sodomitical" was crucial to justifying Spanish colonial

[42] Stephen, *Zapotec Women*, 50-6.
[43] Stephen, *Zapotec Women*, 24-56.
[44] Twinam, *Public Lives, Private Secrets*, 25-34.
[45] Twinam, *Public Lives, Private Secrets*, 25-34; 61.
[46] Twinam, *Public Lives, Private* Secrets, 25-34; 61.
[47] Twinam, *Public Lives, Private* Secrets, 25-34; 61.

rule in the Americas.[48] He does so by highlighting the constant discourse around the "Spanish man" and the "effeminate sodomite" within early modern Spain and Mexico.[49] While same-sex sexual interactions were considered a shameful sin, Garza Carvajal provides additional focus on the cultural attitudes towards same-sex desire among religious moralists, inquisitors, and writers. Garza Carvajal, through this method, then also speaks on the dynamic defining and redefining of the concept of the "Spanish Man" throughout the early modern period.[50] Since New Spain was the first viceroyalty in the Spanish Americas, it became a site of creation and experimentation where laws and customs would then be adapted and enforced across the other colonies by moralistas and inquisitors alike.[51]

The final major monograph from this generation is François Soyer's book which specifically focuses on gender transitivity and diversity within Spain and Portugal. His book provides insight into the Spanish side of the colonial encounter, and he argues that intersex, trans, and gender nonconforming peoples had their identities 'rearranged' to be labeled and catalogued in the strict binary-coding of the Spanish Empire.[52] This claim implicitly bring forth the possibility that the Spanish elite and the Spanish Crown could co-opt certain aspects of gender-diverse individuals within the empire to depict them in a way convenient to the Spanish colonial project's goals. This then creates a certain authority and power that the Crown could be the ultimate decider of one's gender rather than the individual themselves.

While these previous monographs contain research directly pertaining to the Ibero-American world, I also find it necessary to discuss the broader changes in Europe related to

[48] Garza Carvajal, *Butterflies Will Burn*, 5-7.
[49] Garza Carvajal, *Butterflies Will Burn*, 6.
[50] Garza Carvajal, *Butterflies Will Burn*, 6.
[51] Garza Carvajal, *Butterflies Will Burn* 6-7.
[52] François Soyer, *Ambiguous Gender in Early Modern Spain and Portugal: Inquisitors, Doctors and the Transgression of Gender Norms* (Leiden, NL: Brill, 2012).

sodomy and Christianity that these Iberian ideologies were but one piece of the puzzle. In many ways, colonial governance forced Europeans to grapple with the issues of same-sex desire and gender diversity both in Europe and in their colonies. European Christian colonists, like the British, Spanish, Portuguese, Dutch, and French, all had varying definitions of sodomy. The historian of sodomy in early modern Europe, Tom Betteridge, argues that in its broadest sense, the category of "sodomy" referred to non-procreative sexual practices.[53]

Early modern Europe was a continent undergoing great *confessionalism*, or the fracturing of Christianity into different religions based on a variety of factors, where different religions began to redefine their theologies and create new religions.[54] Michael Solomon identifies that one common belief that most, if not all, confessions adhered to was the story of Adam and Eve, in which Eve was created to be Adam's consort and populate the Earth.[55] This story would go on to typify gender roles in Europe and portray women as subservient 'vessels' for procreation and the man as the virile penetrator whose 'seed' would be implanted in a woman to create life. This would spread the belief that man and woman were *destined* to procreate, and ultimately, also typify *cisheternormativity* (cisgender heteronormativity) in all these confessions while criminalizing deviation from this ideal.[56]

As a result of this confessionalism, the historian of male sodomy in early modern Europe Noel Malcolm explains that the category of sodomy had different parameters based on where you were in Europe, and could include acts such as bestiality, same-sex sexual intercourse, oral

[53] Tom Betteridge, "Introduction," in *Sodomy in Early Modern Europe* (Manchester, UK: Manchester University Press, 2002), 1-10.
[54] Sarah Salih, "Sexual Identities: A Medieval Perspective," in Tom Betteridge, *Sodomy in Early Modern Europe* (Manchester, UK: Manchester University Press, 2002), 117-24.
[55] Michael Solomon, "Fictions of Infection: Diseasing the Sexual Other in Francese Eiximenis's *Lo llibre de les dones*," in Josiah Blackmore and Gregory S. Hutcheson, eds., *Queer Iberia: Sexualities, Cultures, and Crossings from the Middle Ages to the Renaissance* (Durham, NC: Duke University Press, 1999), 283
[56] Solomon, "Fictions OF Infection," in Blackmore and Hutcheson, eds., *Queer Iberia*, 283.

sex, masturbation, and heterosexual anal sex.[57] In addition, the subversion of gender roles within the man-woman binary also carried undertones of sodomy as it put doubt on the virility of the male, fertility of the woman, and their overall sexual compatibility.[58] Anne McClintock writes that this becomes especially important in the era of colonization where lands would be imagined as foreign women ready to be penetrated and tamed by European Christian men, which reified the belief that European Christians were dominant among all other religions and races.[59] In the New World, where the Christian-derived gender binary had not been present prior to colonization, alternate gender systems and frameworks for understanding sexuality often deviated from this norm. In turn, this forced Christians in Europe to consider how to either punish or tolerate these actions within their empires, including at home.[60] In consequence, the criminalization of non-procreative sex in Europe was seen as immutable, and to deviate from cisheteronormativity was generally not only understood as "counter-natural," but in many cases from the late Medieval to Early Modern era, as anti-Christian.[61]

This intense focus on sexuality being tied to heteronormativity in the colonial period, with special attention to the customs and traditions of the respective homelands of these peoples, was factored into the creation of anti-sodomy laws. Although these scholars demonstrate progress towards incorporating views gender diversity and non-heterosexual sexualities among Indigenous nations and how the Spanish criminalized deviance in the Mexican Inquisition, this scholarship lacks focus on the development of protoqueerness in the metropole and how protoqueerness might have been conceptualized differently in Spain than in Mexico. In contrast,

[57] Noel Malcolm, *Forbidden Desire in Early Modern Europe* (Oxford, UK: Oxford University Press, 2024), 120.
[58] Malcolm, *Forbidden Desire*, 326.
[59] Anne McClintock, *Imperial Leather: Race, Gender and Sexuality in the Colonial Context* (New York and London: Routledge, 1998), 22-31.
[60] Malcolm, *Forbidden Desire*, 326.
[61] Malcolm, *Forbidden Desire*, 120.

my research will examine the language used in Spanish and Mexican Inquisition trials that were developing concurrently in Spain and New Spain. I will focus on the differences in how these matters were discussed and the various factors that influenced their development.

The most recent body of scholarship, beginning in the late 2010s and early 2020s, has seen rising interest in narrating the early peopling of New Spain as a process of regulating such non-normative sexualities and gender practices. While previous scholarship had often discussed sodomy through the colonial lens of shame, scholars in this generation had begun to flip the script and identify the nuances of honor – its opposite – in defining protoqueer lifeways. The most prominent scholars from this generation are Zeb Tortorici, François Soyer, and once again Pete Sigal.[62] Tortorici and Sigal's *Ethnopornography* (2020) directly builds on Tortorici's previous work *Sins against Nature* (2018), which argues that when researching protoqueerness in the hundreds of records of these cases, consideration of how the Spanish cataloged these acts in the colonial archive is necessary. These terms often include the phrase "contra natura," "pecado nefando," and many other derogatory terms.[63] The use of such terms also speaks to the ways in which the legal system itself was built with bias that might make researching these peoples more difficult. They also argue that the widespread use of various forms of pornography in pre-colonial times by different peoples in West Africa, the Americas, and Australia resulted in the sexualization of these peoples during the colonial era. These colonial era pornographies were then distributed throughout Europe for colonizer fantasies.[64] Another important element of their research is how protoqueerness could be "overlooked" by the state if they enacted hegemonic

[62] Zeb Tortorici, *Sins against Nature: Sex and Archives in Colonial New Spain* (Durham, NC: Duke University Press, 2018); Pete Sigal and Zeb Tortorici, *Ethnopornography: Sexuality, Colonialism, and Archival Knowledge* (Durham, NC: Duke University Press, 2019); and François Soyer, *The "Catalan Hermaphrodite" and the Inquisition: Early Modern Sex and Gender on Trial* (London, UK: Bloomsbury Publishing, 2023).
[63] Tortorici, *Sins against Nature*, 60-82.
[64] Sigal and Tortorici, *Ethnopornography*, 199-223.

masculinity through violence, leadership, or religious devotion.[65] Shame and honor do not exist separate from each other, yet most previous scholarship has focused on the dishonor of sodomy that typified it as inherently incompatible with honor. Sigal and Tortorici's recent work emphasizes the plurality in which protoqueers had the potential to be seen as honorable in Spanish colonial society.

François Soyer also looks at the role of the archive through an analysis of a case study in Spain surrounding someone known as "the Catalan hermaphrodite." While Soyer's book does diverge from others in this generation by once again putting shame as the main lens, his research is extremely valuable as he argues that their trial reveals how gender, sex, and sexuality were inseparable in Spain and how the categories of 'natural/abnormal' could be bent in the Inquisition.[66] He tells the story of María Duran, a Catalan woman accused by the Inquisition of being a woman-turned-man with a secret penis through a pact with the Devil.[67] This case highlights the use of medical practitioners for gender verification and the way religious authorities would intervene in debates about sexuality and sexual identity when debates about heresy were brought to the public eye.[68]

These recent publications open conversations surrounding the roles of protoqueer sexualities and ethnic peoples in New Spain within the legal framework of colonial rule, like the Mexican and Spanish Inquisitions. These scholars begin to consider proto-queer sexualities as they apply to Indigenous American, native African, and Spanish non-normative sexualities in the colonial period, slowly integrating a connection between the metropole's and viceroyalty's versions of the Inquisition. I will incorporate the legal records of the metropole of Spain that are

[65] Sigal and Tortorici, *Ethnopornography*.
[66] Soyer, *The "Catalan Hermaphrodite" and the Inquisition.*
[67] Soyer, *The "Catalan Hermaphrodite" and the Inquisition.*
[68] Soyer, *The "Catalan Hermaphrodite" and the Inquisition.*

often overlooked when studying the legacy of the Inquisition in Mexico in tandem with the voices of the colonized and the colonizers to (re)link queerness in the metropole and the colonies. I will also identify the variety of non-heterosexual and gender non-conforming peoples living in Spain and will bring their narratives to the forefront to unsettle the monolithic view of Native American societies having homophilic tendencies while Spain was the perfect chaste homophobic nation. In doing so, I challenge the oversimplified dichotomy seen in colonial discourse that Indigenous peoples were inherently deviant while Spain represented a morally "pure" center by embracing the ways both New World peoples and Europeans experienced varying attitudes of tolerance and disgust for protoqueers. I also combat the generalization of protoqueers as being inherently shameful in all contexts of Spanish colonial society and argue that while protoqueerness did have overtones of shame, there were exceptions in which protoqueerness could aid in one's accrual of honor. In doing so, I then critique the national mythologies of Spanish exceptionalism perpetuated by the *Leyenda Rosa* ("Rose Legend") in Spain and explicate how protoqueerness existed within both Europe and the Americas – not just in opposition to European norms.[69] Overall, I seek to expand the scope of queer historiography as it relates to empire, religion, gender, and law.

The Inquisition in Spain: The Cases of Eleno de Céspedes and Antonio de Erauso

Eleno de Céspedes

In the town of Alhama de Granada in Andalucía, an enslaved Black Muslim woman named Francisca de Medina and her lover, a free Christian peasant named Pero Hernández, gave birth to

[69] The Rose Legend is the Spanish reaction to the *Leyenda Negra* ("Black Legend") that depicts Spain as a benevolent colonizer. This legend minimizes violence and the suffering of Indigenous peoples. See José Checa Beltrán, "Leyenda Negra y leyenda rosa," in José Checa Beltrán, ed., Lecturas del Legado Español en La Europa Ilustrada (Madrid, Spain: Iberoamericana, 2012), 7-12.

a child in 1545.[70] They named this child Elena, and soon after being freed early in life, she went on to live what would have been quite a normal life in the mid-1500s: she got married, had a child, and was abandoned by her husband (who died soon afterwards). However, Elena noticed something quite unusual begin to occur during her pregnancy with her son Cristóbal – she began to present male genitalia. Elena thought her entire life that she was a woman, but sometime in the 1560s, she embraced her *hermafrodita* ("hermaphrodite," today called "intersex") condition and began to wear men's clothes and identify as Eleno.[71]

Eleno then went on to become a soldier and a surgeon during the *Morisco Revolt*, also called the *War of the Alpujarras*, in 1567.[72] It was not until 1587 that Eleno's gender condition was discovered by the Inquisition. Eleno married a woman named María del Caño in 1586 after a lengthy inspection by physicians, midwives, and surgeons that deemed that he had a prominent penis, visible testes, and a 'hidden' vagina between the penis and the anus.[73] Despite there being enough confirmation of masculinity to allow Eleno to marry as a man, both he and his wife were arrested and tried for sodomy, witchcraft, and *hermafroditismo* the following year.[74]

[70] Igor H. de Souza, "Elenx de Céspedes: Indeterminate Genders in the Spanish Inquisition," in Greta LaFleur, Masha Raskolnikov, and Anna Kłosowska, eds., *Trans Historical: Gender Plurality before the Modern* (Ithaca, NY: Cornell Publishing Press, 2021), 42.
[71] de Souza, "Elenx de Céspedes," 47-54.
[72] de Souza, "Elenx de Céspedes," 47-54.
[73] Archivo Histórico Nacional, Inquisición 234, Exp. 24.
[74] Archivo Histórico Nacional, Inquisición 234, Exp. 24.

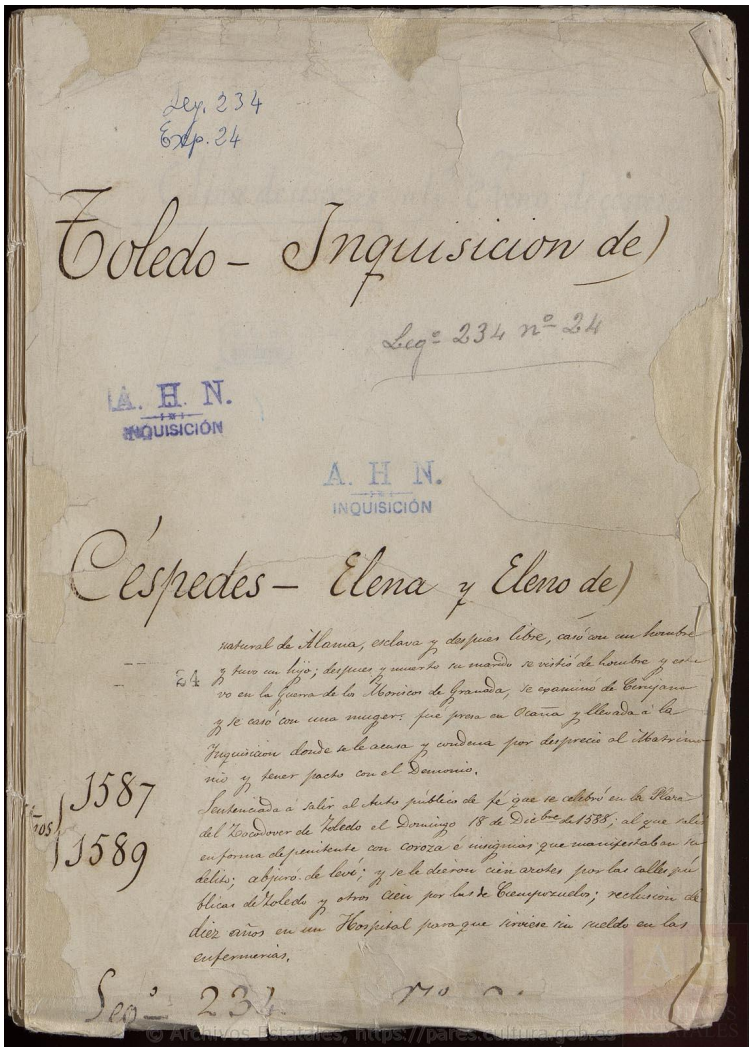


Fig. 1. Archivo Histórico Nacional, Inquisición 234, Exp. 24.

Although the trial was quite a humiliating one, Eleno fought against the accusations using sound logic and reasoning, which is evident by the lack of mention in the record of him having a defense attorney and the presence of pages of personal testimony of his life.[75] This serves as a rare and powerful example of protoqueer self-advocacy against the legal-religious Inquisition system. Eleno claimed that when he was married to Cristóbal Lombardo, his female genitalia were prominent and he was able to give birth soundly. After this pregnancy, male genitalia hidden under skin within the female genitalia began to appear when aroused, and a surgeon was

[75] Archivo Histórico Nacional, Inquisición 234, Exp. 24, https://www.digitaltransgenderarchive.net/files/k930bx13w.

able to cut open the skin and release the genitalia fully. As Eleno aged, these male genitalia became dominant, and the female genitalia began to move downwards. Therefore, Eleno claimed he was a woman when he was married to a man, and now he is a man married to a woman – never a sodomite.[76] Within the same logic, he fought against the witchcraft accusation of using the devil's help to change genders by claiming this was a natural biological condition he had no control over. Shortly after physical examinations began, Eleno's penis mangled in a horse-riding injury and had to be amputated.[77] Whether this is the full extent of the story of how he injured his penis is inconclusive.

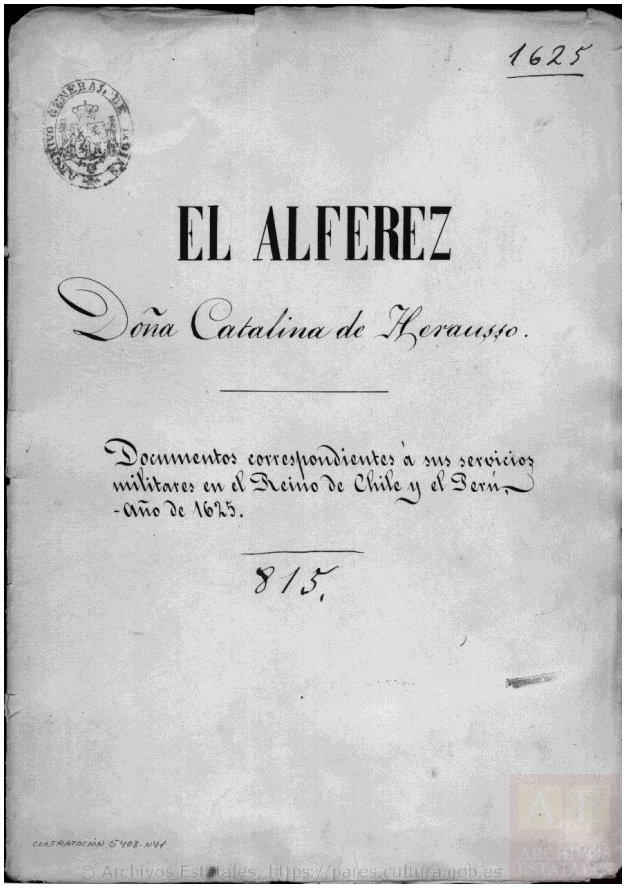
The Inquisition eventually found Eleno to have adequately argued his case. However, in a bogus charge likely meant to please and silence the physicians, surgeons, midwives, and inquisitors involved and provide a façade of state authority in the verdict, he was charged with bigamy for failing to document the death of his husband before marrying María. He was then charged to have 200 lashes, 10 years of confinement, and an auto-de-fé while wearing a *sanbenito* – an outfit of robes with red fiery design signifying heretics.[78] However, Eleno's skills as a surgeon earned him great repute, and he lived his sentence out as a public servant in a poor hospital.[79]

Antonio de Erauso

It is rare to locate the testimonies of a proto-queer individual in early modern times; however, in the case of Spain, there is one: *La Monja Alférez* – the story of Antonio de Erauso, a trangender nun who left the convent to become a well-decorated soldier in Spain, New Spain, and Perú.

[76] AHN, Inquisición 234, Exp. 24.
[77] AHN, Inquisición 234, Exp.24.
[78] AHN, Inquisición 234, Exp.24.
[79] de Souza, "Elenx de Céspedes," 47-54.

He was born Catalina de Erauso to Basque parents in 1585 and was placed into a convent that her mother's cousin was a prioress at. He was abused by a nun and ran away in 1600, changing his identity from Catalina to a multitude of male identities – eventually settling on Antonio.[80] He served in armies across South America and New Spain, ranging from battles in Venezuela, Chile, Argentina, Bolivia, Perú, Ecuador, and Panama.[81]


1625

EL ALFEREZ

Doña Catalina de Herausso.

Documentos correspondientes á sus servicios militares en el Reino de Chile y el Perú -Año de 1625.

815.

CONTRATACIÓN 5408. N41

Fig 2. Ministerio de Cultura, Archivo General de Indias, Contratación, 5408, No. 41.

However, he was also known to have an irritable temper and committed a murder in Perú.[82] To avoid execution, he "admitted" that he was a virgin woman who had served as a nun and was

[80] Sherry Velasco, *The Lieutenant Nun: Transgenderism, Lesbian Desire, and Catalina de Erauso* (Austin, TX: University of Texas Press, 2001), 34.
[81] Ministerio de Cultura, Archivo General de Indias, Contratación, 5408, No. 41, https://pares.mcu.es/ParesBusquedas20/catalogo/show/149366.
[82] Velasco, *The Lieutenant Nun*, 1.

then sent back to Spain under the protection of a bishop. There, he went to Rome and petitioned for financial compensation on the account of his merit and service, which was granted. He then moved to Veracruz in New Spain and died sometime in the 1650s.[83]

The Inquisition in New Spain: Cotita de Encarnación

Cotita de Encarnación

Cotita de Encarnación was used to having orgies in her house. In fact, she was so comfortable with this reality that she became sloppy and stopped hiding her escapades. In 1657, a mestiza laundress named Juana in San Lázaro, Mexico City, was washing clothes in a nearby river when a young boy approached her and exclaimed that "there are two men riding each other as if they were on horseback!" She then ran and fetched the *Alcalde* of crimes, Don Juan Manuel de Sotomayor, who in turn placed Cotita and the gay men present in jail.[84] Cotita, while using female pronouns, was born a mixed-race man named Juan Galindo de la Vega. As a result, the *proceso* of Cotita's trial discusses that she was charged with cross-dressing and having young adults and teens, adults, older gentlemen, and men of all castes and social backgrounds engaging in anal intercourse with each other.[85]

Many neighbors and residents of San Lázaro were asked to give testimony on Cotita's character, each describing them wearing a headscarf, cooking tortillas by hand, and caring for men of all ages, sometimes even referring to them as "mi amor" and "mi vida," my love and my life, respectively, "como si una mujer," like a woman.[86] Of the fifty-one people tried for engaging in the action of sodomy with Cotita, some of them also preferred to be called by names such as "Mariquita (from "ladybug"); Sangariana (a combination of *zángano* "male drone bee,"

[83] Velasco, *The Lieutenant Nun*, 172.
[84] Archivo General de la Nación, Inquisición 38.N57C, 1657, Exp. 57.
[85] AGN, Inquisición 38.N57C, 1657, Exp. 57.
[86] AGN, Inquisición 38.N57C, 1657, Exp. 57.

used to refer to an effeminate or foolish man, and the name ‘ariana’); Conchita (diminutive of Concepción, having to do with the Immaculate Conception of the Virgin Mary); Luna (“moon”); Rosas (“roses”); Martina de Los Cielos (“Martina of the skies,” “dreamy”); and La Amorosa (“the loving one”),” all of which doubled as slurs in their communities.[87]

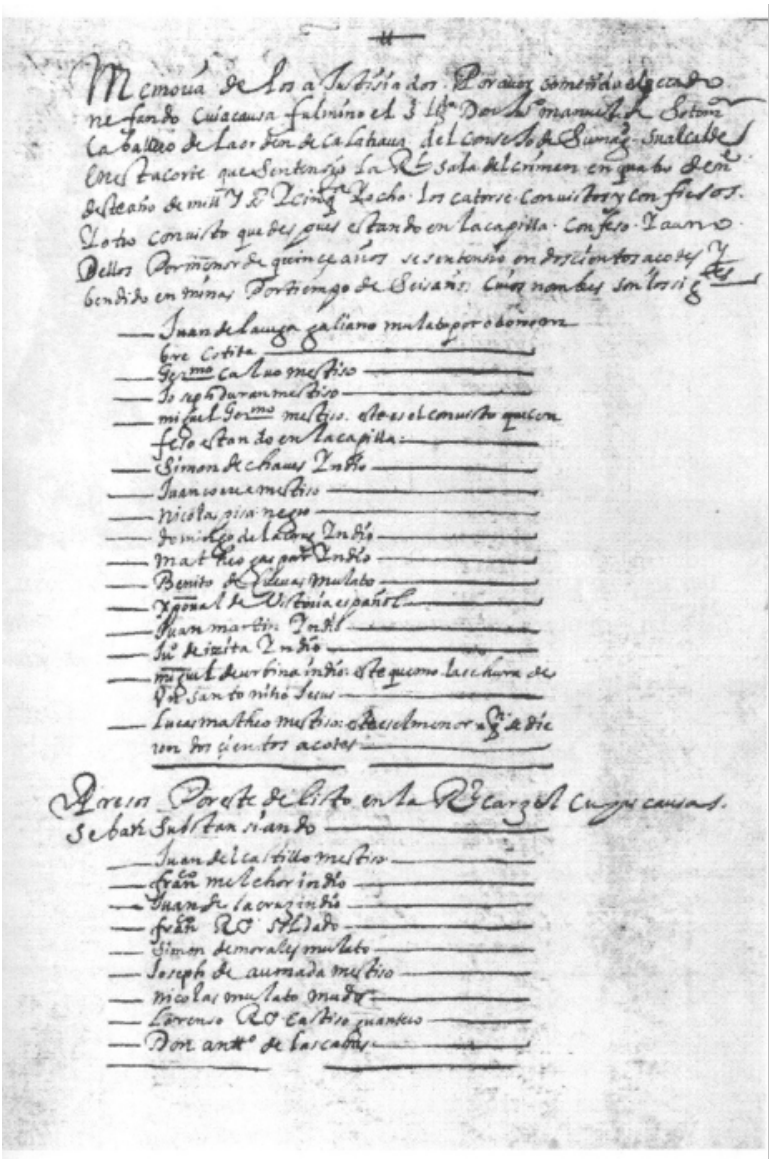


Fig 3. Archivo General de la Nación, Inquisición 38.N57C, 1657, Exp. 57.

[87] AGN, Inquisición 38.N57C, 1657, Exp. 57.

Those that were questioned and willingly gave up their involvement were members of every casta in early Mexican society.[88] See the list of some men accused in this proceso (figure 2, above) transcribed below with their castas written beside their name:

Juan Correa "la Estampa" (Mestizo)
Joseph Durán De Puebla (Mestizo)
Geronimo Calbo Y Cuebas De La Ciudad De Mèxico (Mestizo)
Miguel Gerónimo (Mestizo)
Simón De Chavez (Indio)
Domingo De La Cruz (Indio)
Juan Martín (Indio)
Miguel De Urbina (Indio)
Juan De Ycita (Indio)
Juan Correa (Mestizo)
Cristóbal De Vitoria (Español)
Nicolás Pisa (Negro)
Benito De Cuevas (Mulato)
Mateo Gaspar (Indio)
Lucas Mateo (Mestizo).[89]

Cotita's case shocked the inquisitors. She was a half-Spaniard half-African (a mulata) who slept with Peninsular Spaniards (Españoles), Native Mexicans (indios), Africans (negros), and other mixed-race casta peoples, like half-Native Mexican half-Spaniard individuals (mestizos), despite being a poor mulato living in a poorer area of Mexico City. While the ethnoracial element of Cotita's sexual life probably did impact her case, the more glaring issue was likely the sheer number of men she committed sodomy with. Fifteen of these individuals were sentenced to death, including Cotita herself who was burned in an auto-de-fé. One of them, a minor, was instead given 200 lashes, and not a single Criollo or Español was killed.[90] Minors, as impressionable and easily manipulated, often received less severe crimes than adults since age

[88] See Ilona Katzew, *Casta Painting: Images of Race in Eighteenth-Century Mexico* (New Haven, CT: Yale University Press, 2004) and R. Douglas Cope, *Limits of Racial Domination: Plebeian Society in Colonial Mexico City, 1660–1720* (Madson, WI: University of Wisconsin Press, 1994) for additional information on casta relations in colonial Mexico.
[89] While there were countless other castas too, some were regionally confined, rare, and state ideals that plebeian society did not interface with. See note 84 for a list of scholarship on the state mythology tied to the casta paintings.
[90] AGN, Inquisición 38.N57C, 1657, Exp. 57.

was a marker of moral responsibility.[91] With this in mind, the impressionable nature of minors meant that their actions were correctable, then indicating that the inquisitors in Cotita's case likely believed same-sex acts to be curable. The fact that all white people in this case were spared death speaks to the use of Brown and Black bodies as cautionary tales of both sin and spectacle. On that account, it is then possible to deduce that the white body was generally considered more respectable and honorable than non-white bodies, especially since Creoles and Peninsular Spaniards maintained the top of the racial hierarchy. Once again, the Spanish attempted to present a façade of authority over the uncontrollable by rewriting the narrative and excluding white people, those meant to exert control and surveillance over non-white people, from the auto-de-fé while emphasizing the foreignness of sodomy: an aspect of the homophilic New World myth.

Protoqueers in the Army: A Spanish Phenomenon

Antonio de Erauso served as a soldier in the army, traveled to the New World, and made a name for himself in his mother country of Spain, and therefore, his actions were never formally reviewed by the Inquisition because of the legacy, reputation, and honor he gained. The compelling ethos of a religious leader's personal vouch also helped push him out of an Inquisitorial review. Instead, he was consistently in trouble in the local courts across Spain and the Americas for petty crimes and murder, eventually settling in New Spain.

Meanwhile, Eleno de Céspedes' gender diverse condition did not really factor into the final verdict. He was charged with bigamy, a likely bogus charge, and his time in the army was also deeply impactful as he was punished by becoming a public servant. The Inquisition court allowed him to use his skills from serving as a surgeon in the army to save lives in a poor

[91] Monter, *Frontiers of Heresy*.

hospital in a ten-year sentence. In both cases, the army and religious values served important roles in defining the outcome of these cases. For Antonio de Erauso, his time in the army gave him an outlet to express the anger he experienced as part of his natural temperament and a way for him to enact masculinity and hide his biological sex from public view. Eleno de Céspedes also used the army as an expression and affirmation of masculinity. In this manner, the Spanish army served a role in fostering gender-diversity and early queer lifeways.

However, one could say this is counterintuitive since armies are symbolic of nationalism, imperialism, and goals of conquest. Therefore, would the leaders in the metropole not be stricter in penalizing such protoqueers at the forefront of their colonial ventures meant to maintain order? It seems, to an extent, serving in the army could provide a way to counteract the 'otherness' of being protoqueer. Allegiance to the metropole was a way to prove you were useful to the empire and that you were actively benefiting the nation-state. Both de Erauso and de Céspedes were decorated servants in the army, one a foot soldier fighting Indigenous peoples in the borderlands of South America and the other a surgeon saving the lives of injured comrades in Spain. This gave them both sufficient honor to be respected by both colleagues and officials alike. Their military service represented their loyalty to the empire. Since their gender performance aligned with military masculinity, which included the attributes of honor such as bravery and loyalty, the Crown was then able to overlook their protoqueerness because of the utility they brought the colonial project.

In early modern Spain, honor was a status symbol that had serious repercussions in how society and officials alike could perceive someone and even interact with them. Honor was a social credit that one had to collect and prove for themselves to those around them. It was a

matrix that integrated virtue, hierarchy, and status.[92] Everyone had honor, even if you were an enslaved person or poor person. It was also a male-centric concept that men developed around prestige, rank in titles, and privileges.[93] Inversely, it was quite a damaging concept to women as their honor was centered around sexual chastity, *marianismo*, and adhering to roles subservient to the men in their lives.[94] This raises yet another contradiction or paradox pertaining to why de Erauso and de Céspedes were not violently punished for their breech of womanly honor.

In de Erauso's case, he embodied violent and patriotic masculinity in service of the space despite his sex, and in consequence, his actions served the purpose of reaffirming European Christian dominance over the colonies by assimilating into the role of a male soldier who gained honor as a man. Rather than disrupting the system, he was furthering its goals, and by remaining unmarried, did not bring him into contact with the Inquisition in a way that would have disrupted Spanish norms like in de Céspedes' case. Additionally, de Erauso granted a papal dispensation by Pope Urban VIII in 1626, and the autobiography that he wrote became a play and story many would come to read.[95] This story recasts him as a woman who miraculously survived war and then turned to Catholicism for shelter and redemption.[96] In alignment with Butlerian thought, this can be described as de Erauso performing the category of man so well that is overwhelmed the category of woman.[97] While de Erauso moved to Mexico and lived the rest of his life in peace as

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[92] Mark A. Burkholder, "Honor and Honors in Colonial Spanish America" in Lyman L. Johnson and Sonya Lipsett-Rivera, eds., *The Faces of Honor: Sex, Shame, and Violence in Colonial Latin America* (Albuquerque, NM: University of New Mexico Press, 1998), 18-44; and Anne Twinam, "The Negotiation of Honor" in Lyman L. Johnson and Sonya Lipsett-Rivera, eds., *The Faces of Honor: Sex, Shame, and Violence in Colonial Latin America* (Albuquerque, NM: University of New Mexico Press, 1998), 68-102.
[93] Burkholder, "Honor and Honors in Colonial Spanish America" and Twinam, "The Negotiation of Honor."
[94] Burkholder, "Honor and Honors in Colonial Spanish America" and Twinam, "The Negotiation of Honor."
[95] Catalina De Erauso, *Lieutenant Nun: The True Story of a Cross-Dressing, Transatlantic Adventurer Who Escaped From a Spanish Convent in 1599 and Lived as a Man*, trans. Michele Stepto and Gabri Stepto (Boston, MA: Beacon Press, 1997), 126-7.
[96] Sandra Guadalupe Sánchez Rodríguez, *Análisis Histórico y Literario de: Vida i sucesos de la Monja Alférez, doña Catalina de Erauso* (Mexico City, Mexico: Universidad Autónoma Metropolitana Iztapalapa, 2004).
[97] See Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York City, NY: Routledge, 1990).

a man, he became known in literature as a woman who temporarily occupied the social category of man before returning to Christ.[98]

This concept becomes even more intriguing – and apparent – in de Céspedes' trial. On the title page of the proceso, it lists "Eleno y Elena," or "Eleno and Elena," instead of just "Eleno." It is possible that the choice to use both names by the Inquisition was an effort to capture the full scope of Eleno's gendered existence in a system intended to classify and correct. This choice to use both names indicates that the Inquisition refused to legitimate either gender identity and instead maintained that Eleno acted within a liminal space of suspicion and vulnerability. Ultimately, this was a power move on behalf of the Inquisition in reaction to Céspedes' attempts to self-identify. Even though the Inquisition did settle on allowing him to identify as a man, this double naming on the title page could reflect a conceptual inability to resolve Céspedes into one category. Despite Eleno occupying the space of manhood, the biological and moral ambiguities in this case still cast a shadow over the Inquisition's verdict – an uneasy stalemate. The Inquisition, rather than decide on a name, chose to memorialize both the transgression for the record and the institutional discomfort this case caused the court. Once again referencing Judith Butler, this inability of the Inquisition to name, police, and affirm his gender highlights the fiction of gender coherence – or gender trouble – in colonial societies.[99] If Eleno was truly deemed to be a man by the state, the archive would have no need to list both names.

Unlike de Erauso, who was white, de Céspedes was a mulato. This raises yet another question: what do we make of the lack of impact of this racial component in de Céspedes' proceso? It is not out of the realm of possibility that Eleno's service to the state's regime

[98] Sánchez Rodríguez, *Análisis Histórico y Literario de.*
[99] Butler, *Gender Trouble.*

overpowered his ethnicity, which, being half Castilian, could have aided. Many mulatos across colonial Latin America were able to self-identify as Creole or Peninsular and pass as such, so it is likely the combination of his status in service to the state, and proximity to whiteness, awarded him the same luxury.[100] In this sense, both de Erauso and de Céspedes embody the ways in which gender roles, honor, and class could be reshaped according to the nation-building project under the guise of control.

Although Eleno mentions love as a reason for petitioning for marriage, it can be speculated that there were also other motives for enduring such a lengthy and humiliating process to get married. A possibility is that marrying María could have been a way of "sealing" his gender identity in the eyes of society, the church, and even the state. Additionally, his marriage to María would have demonstrated that masculinity was also a social role not limited by one's biology. This could be affirmed through the acts of *becoming* a husband, *being* a provider, and *fulfilling* the state's gendered vision of citizenship. As theorized by queer theorist Judith Butler, gender is not something someone *is*, but rather, what one *does*.[101] Céspedes, as a surgeon, was already professionally passing as male. In essence, de Céspedes marrying a woman would be the logical next step in the public, social, and spiritual confirmation of his successful performance of manhood. Consequently, Eleno's choice to undergo such harsh examinations and scrutiny can then be seen as a high stakes act of gender performance through the script of law, religion, and society.

Spanish society's focus on social legitimacy and mobility also could have led Céspedes to seek marriage for the stability and economic security it offered, especially since marriage

[100] See Katzew, *Casta Paintings* and Cope, *Limits of Racial Domination* for additional information on casta relations in colonial Mexico.
[101] Judith Butler, *Gender Trouble.*

could elevate one's status.[102] This is likely a reason María endured in her commitment to Eleno during these inspections: Eleno was a well-respected surgeon with status who served in the army, and therefore, the potential stability and protection he provided her could have been deemed worth enduring. In early modern Iberia, the church and state demanded categorization, hence, his ambiguity was in itself suspicious.[103] When Eleno chose to face the Inquisitors himself – without an attorney – to fight for his right to marriage, he actively asserted his claim to his identity and role in society, and therefore, also took control of the narrative. This engagement with complex embodied negotiations of gendered power structures clarifies this marriage to María as a site of radical self-determination.

To truly understand the force that honor was in the early modern Iberian world, historian William Ian Miller writes that "there was no self-respect independent of the respect of others…unless it was confirmed publicly."[104] Guillermo de Los Reyes, a historian of honor as it related to sodomy in colonial Mexico, describes how honor was inherently gendered: for men, honor was accrued by authority, courage, dominance, and power; for women, honor was accrued by preserving virginity, feeling shame, and performing sexual restraint.[105] De Los Reyes also explains that there are explicit connections between honor and race in colonial Mexico. He writes that the elite, who were overwhelmingly creole or peninsular, were called the "*gente decente*" ("decent people"), and their sodomy cases would be handled discreetly with no corporal punishment – just like in Cotita's trial.[106] There were restrictions on the right for Indigenous peoples and Afro-Americans to bear arms or dress like elite Spaniards, but by purchasing the

[102] Burkholder, "Honor and Honors in Colonial Spanish America" and Twinam, "The Negotiation of Honor."
[103] Monter, *Frontiers of Heresy*.
[104] William Ian Miller, *Humiliation: And Other Essays on Honor, Social Discomfort, and Violence* (Ithaca, NY: Cornell University Press, 1995), 116.
[105] Guillermo De Los Reyes, "'Curas, Dones y Sodomitas:' Sexual Moral Discourses and Illicit Sexualities among Priests in Colonial Mexico," *Anuario de Estudios Americanos* 67, no. 1 (Winter 2010): 61.
[106] De Los Reyes, "'Curas, Dones y Sodomitas,' 61-2.

gracias al sacar (certificates that changed a person's status to white), they could afford the privilege of the highest rank of honor: Old Christian honor.[107] While everyone could attain honor, not everyone could be given the privilege to occupy the category of whiteness, the highest honor possible within the racial hierarchy of the Spanish Empire.

The army, especially in the context of colonial empire-building, embodied all four aspects of honor for men: courage (through commitment to protecting your nation), power (through exerting violence in the name of peace for the state), dominance (by conquering other powers and affirming your own), and authority (by being a high-ranking and high-classed official whose title alone awards respect and praise).[108] For this reason, it would have been exceedingly beneficial for gender-diverse men to join the army. As men, they already had more freedoms than when they presented and identified as women in the public sphere. As gender-diverse men, however, they needed to continually affirm their masculinity and build up their honor to occupy the social category of men and have their biological sex be unquestioned. The army was not a monolithic structure. There were many ways to serve in the army – like by serving as foot soldiers, surgeons, and sea captains – and many ways to gain rank and prestige, such as through honorable acts like saving a life or gaining merit and skill and becoming promoted to higher-ranking titles.[109] As a result, the army, as the ultimate show of masculinity, also had many different ways to be of use that could be beneficial to men with all different types of skills – an aspect especially beneficial to gender-diverse men like de Erauso and de Céspedes.

[107] De Los Reyes, "'Curas, Dones y Sodomitas,' 64.
[108] Burkholder, "Honor and Honors in Colonial Spanish America" and Twinam, "The Negotiation of Honor."
[109] John Shy, "Armed Forces in Colonial North America: New Spain, New France, and Anglo-America" in Department of National Defence of Canada, *Records of the 4th International Colloquium on Military History* (Ottawa, Canada: The University of Ottawa Press, 1979), 10-26.

There are other benefits to serving in the army, too. The army consisted of homosocial spaces with many single 'bachelors' that could disobey and bend the rules of empire more fluidly since they were sent to areas with little supervision, especially the borderlands of the empire, and therefore could get away with more 'transgressions.'[110] In fact, there were many cases in the Inquisition of same-sex actions coming to light after the soldiers retired or were on sabbatical. One such case in the Spanish Inquisition consisted of a man who asked his wife to finger his anus because he had learned the pleasure it can cause while stationed in the army. His wife was mortified and went to the authorities. He was then tried and arrested for "heterosexual sodomy."[111]

The idea of "heterosexual sodomy" is unique within the Spanish Inquisition and consisted of men, predominantly former soldiers, who asked their wives to engage in sexual actions that the church did not condone, such as masturbating each other, ejaculating outside the vagina, oral sex, or anal sex.[112] It did not operate as a distinct category of sodomy within the Inquisition, but instead, was encapsulated as one of the non-procreative sex acts that the category of 'sodomy' encapsulated.[113] 'Sodomy' was not just a category of homosexuality, but a broad category of any 'transgressive' sexual acts. Over 18% of all people tried for sodomy in the Spanish Inquisition were soldiers in the army, and while there has not been a statistical analysis done for how many soldiers were tried specifically for heterosexual sodomy, it is likely that the percentage is higher as these practices would have been performed more safely in the context of the homosocial space of the army who were away from their wives.[114]

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[110] Shy, "Armed Forces in Colonial North America," 10-26.
[111] AHN: Inquisición, legajo 3732, no. 419.
[112] Monter, *Frontiers of Heresy*, 284-5.
[113] Tortorici, *Sins against Nature.*
[114] Henry Kamen, *The Spanish Inquisition: A Historical Revision* (New Haven, CT: Yale University Press, 1999), 277.

It is also likely that in a soldier's perspective, sodomy might not have been seen in the same morally repugnant manner as the rest of Spanish colonial society. In early modern Spain, honor was tightly linked to masculinity, especially for those in the army.[115] Spanish Catholic theology maintained married, reproductive sex at the top that was policed through confession, the Inquisition, and moral teaching, and was essential to ordering the empire.[116] Soldiers were meant to represent order, but in reality, they represented *instability*. A soldier's engagement in penetrating his wife anally or orally could be interpreted as an exaggeration of masculine power. Since honor for a man meant proving his virility and affirming his wife's passivity, this act could have been deemed a distorted assertion of honor and virility.[117] This act could simultaneously affirm masculine power in the cultural register of the army while also being *contra natura* in the theological sense. Soldiers, then, embodied an unstable mix of power and honor: they were protectors of the realm, but also known for their chaotic, violent, and hypersexual behavior.[118] This created a persistent contradiction: soldiers, expected to defend the faith, frequently acted in ways that subverted its moral tenets. The Church and the Inquisition, invested in ideological purity, then had to discipline those very agents of state power without fully destabilizing the military order. In consequence, the association of heterosexual sodomy and soldiers is best understood as a symptom of unresolved tensions in early modern Spain as a place where ideological control, cultural performance, and bodily practice consistently clashed. Sodomy was not just a sin, but a symbol of the cracks in the system that linked religious morality, masculine honor, and imperial power. It is through this unresolved tension that gender-diverse individuals and those with same-sex desire could join the army: they got away with exploiting this tension

[115] Burkholder, "Honor and Honors in Colonial Spanish America" and Twinam, "The Negotiation of Honor."
[116] Tortorici, *Sins against Nature.*
[117] Burkholder, "Honor and Honors in Colonial Spanish America" and Twinam, "The Negotiation of Honor."
[118] Shy, "Armed Forces in Colonial North America," 10-26.

for their own personal benefit behind closed doors. In this same vein of thought, those soldiers that enacted heterosexual sodomy in reverse – having their wife anally penetrate them – while proving to have devastating impact on honor and masculinity, could then possibly be understood as rebellion against the entire patriarchal-militaristic order for which they would then be condemned by the state.[119]

The statistic that nearly ⅕ of all people tried for sodomy of any kind were those in the army – tied with another ⅕ being clergy and another ⅕ being servants / slaves – highlights that gender-diverse people and those with same-sex desire were actively joining the homosocial space of the army *and* putting their desires into practice.[120] Therefore, the army was recognized as a space that not only promoted and affirmed masculinity, but allowed for men to experiment with same-sex desire in a space devoid of women and had more power of freedom the more honor was earned and generated. The army could be useful for fostering the freedom of gender and sexual expression and improve one's social status and honor, making it a sought-after space by protoqueers such as de Erauso and de Céspedes.

The cases of Antonio de Erauso and Eleno de Céspedes demonstrate how the army was an outlet for protoqueerness in Spain. The ability to accumulate and develop honor while being able to identify a space that affirms masculinity and places protoqueer men within relative proximity to each other was, in many ways, as conducive to protoqueerness as it could possibly be in early modern Spain. While this does not mean that same-sex desire or gender-diversity were openly practiced within the army and that all men were accepting of such conditions, it does mean that within the army there were ways for protoqueers to identify each other with relative ease. Additionally, it should also be noted that heterosexual men who believed they had

[119] Judith Butler, *Gender Trouble.*
[120] Kamen, *The Spanish Inquisition*, 277.

sexual needs to meet to function, as was a common legacy of humorism at the time, could also seek out other men for pleasure to relieve sexual frustration of missing their wives.[121] Therefore, same-sex sexual acts within the army were not just a homosexual phenomenon, but a heterosexual phenomenon too. This level of tolerance of sexual deviation within this homosocial space constituting young men then served as a foundation for protoqueers and sexually curious men alike to experiment with their desires and should be further studied for its impact on protoqueer individuals in the early modern era.

Despite the prominence of gender-diverse peoples and those who experienced same-sex desire in Spain, I identify a distinct lack of the emphasis of protoqueers in the army in Novohispanic Inquistorial records.[122] This does not mean that some of these protoqueers tried in the Mexican Inquisition were not also in the army, but that their enlistment in the army did not mean the same thing as it did in Spain and were not brought up as frequently in their court records. In a comparative study of the armies of New France, New Spain, and New England conducted by historian John Shy, he identified that during the 16th and 17th centuries, the army of New Spain (post-conquest) was small because of a poor road system, diseases, and the advantageous defensive nature of internal Mexican geography.[123] Outside of the small forts on the coasts of Veracruz and Guerrero, there were no other military strongholds within New

[121] Naomi Silverman, "Sacred Symbioses and Feminine Succubi: Humoral Theory and Sexual Intercourse in Early Modern Europe," *University of Massachusetts Undergraduate History Journal* 7, no. 1 (Spring 2024): 51.
[122] I conducted this search through a preliminary examination of the record catalogs of the Bancroft Library at the University of California, Berkeley; The Huntington Library in San Marino, California; American Jewish Archives; Center for Jewish History; Harvard Law School Library, Historical & Special Collections; and the Holland Library of Washington State University. Due to time constraint, I was not able to visit these collections in-person and was unable to perform a detailed search of the Archivo General de la Nación, México for records of sodomy within the Spanish army. I want to give a special thanks to Zeb Tortorici for making public the record catalog of over 327 documents pertaining to sodomy that he used in his book *Sins Against Nature* through the NYU Faculty Digital Archive.
[123] Shy, "Armed Forces in Colonial North America," 10-26.

Spain.[124] As a result, the little army that New Spain had consisted mainly of armed Spanish-descent individuals, and in return, does not appear to have been as valuable to protoqueers in Mexico as it was in Spain.

It must then be asked: if the army was not valuable to protoqueers in Mexico as it was in Spain, what was? In contrast to Spain, where military service offered certain gender-diverse individuals a path to legitimacy through the performance of masculinity and service to the state, colonial Mexico offered fewer sanctioned avenues for such expressions. The colonial Mexican army was smaller and not as integrated into the fabric of civic life, limiting its utility for protoqueers in Mexico. The case of Cotita de Encarnación, who lived in this context, exemplifies how protoqueerness was expressed outside of state-sanctioned structures. Protoqueers in colonial Mexico were more likely to be relegated to the margins and navigate life through discretion, evasion, and the formation of underground networks.[125] These communities, often criminalized and invisible in official records, functioned as critical spaces of survival, solidarity, and self-fashioning – highlighting the resourcefulness that protoqueer individuals in colonial Mexico negotiated a society that afforded them little room for public legitimacy.

In the case of Cotita de Encarnación, this underground network of survival is extremely evident. There were fifty-one people of all classes and castas listed to have been associated with Cotita's meeting place (which was her house), such as Juan Correa (Mestizo), Simón de Chavez (Indio), Cristóbal de Vitoria (Español), and Nicolás Pisa (Negro).[126] This practically represented almost all walks of life in colonial Mexico, implying that there were ways for protoqueers all across Mexico to identify and gain knowledge of Cotita's house as a safe space for them to meet

[124] Shy, "Armed Forces in Colonial North America," 10-26.
[125] Tortorici, *Sins Against Nature*.
[126] While there were countless other castas too, some were regionally confined, rare, and state ideals that plebeian society did not interface with. See note 84 for a list of scholarship on the state mythology tied to the casta paintings.

and engage in same-sex actions and gender-diverse performances. While Cotita's house is the largest and most well-known case of protoqueers meeting each other through underground methods, the existence of such a network leaves the question of how many other locations and peoples part of their own networks existed across Mexico at this time. This is a question that can only be answered with additional research into overlapping associations between protoqueers in colonial records, and for now, remains a likely possibility.

Instead of focusing on the army as many of these documents within Spain proper had done, records of sodomy within the Mexican Inquisition emphasize a different set of factors much more frequently, especially including ethnorace, religion / heresy, and sexual deviancy.[127] In fact, Tortorici writes that this was part of the design of the Mexican Inquisition: "the law in New Spain was clear: the Holy Office of the Mexican Inquisition was allowed to prosecute cases of sodomy *only* when some overt heresy (like solicitation in the confessional) or a heretical proposition (like asserting that 'sodomy is not a sin') was involved."[128] This limited power given to the Mexican Inquisition by the monarchs in Spain is indicative of a different set of factors they wanted Novohispanic law to focus on: heresy and religious deviation. Instead, homosexuality and gender diversity would not be treated as heretical, as it was in Spain, unless it openly acknowledged a heretical thought, and the local courts would instead be in charge of processing sodomy as a crime. So then, why did Spain make such a decision? And why does the Mexican Inquisition speak of sodomy in terms of a multiplicity of transgressions? The answer lies in Spain's philosophy of conquest and assimilation in New Spain.

Introducing the Inquisition to Mexico: Indigenous Lifeways & Rupture in the New World

[127] Tortorici, *Sins Against Nature*, 13.
[128] Tortorici, *Sins Against Nature*, 13.

When the Spanish arrived in the New World, they encountered many different peoples with a variety of views on protoqueerness. Many of these cultures were accepting of gender diversity and same-sex desire. The Zapotec people of Oaxaca have a centuries long integration of third-gender identities in their culture and traditions.[129] They call their gender-diverse peoples *Muxes*, which are typically people born of the male sex that adopt both the social categories of men and women in their society and hold a special ceremonial value within their religion.[130] They embody the androgynous force of nature and historically were well-known by the Spanish for their acceptance of same-sex desire and gender diversity.[131] In Yucateco Maya society, heterosexual sex was reserved for men and women in committed long-term relationships, so same-sex sexual encounters were reserved for those outside of commitments.[132] Therefore, the Maya of Yucatán also had a relatively accepting view of same-sex desire and gender-diversity.

Despite these realities, there was more nuance in Mexica-Aztec religion and culture, which we primarily understand from elite perspectives and not necessarily plebeian society, or what Historian of Mesoamerican religions David Carrasco calls "the mystico-military religion of the Aztec warrior class."[133] In the Mexica state-sponsored religion, the goddess Xochiquétzal was worshipped as the protector of young mothers. She also had a masculine identity that is treated as an entirely separate entity named Xochipilli: the protector of homosexual people. He was known for ensuring homosexual prostitutes were protected from harm.[134] While this dual gender deity was worshiped, there were also Mexica-Aztec tribes that barred homosexuality to

[129] Alfredo Mirandé, *Behind the Mask: Gender Hybridity in a Zapotec Community* (Tucson: University of Arizona Press, 2017).
[130] Mirandé, *Behind the Mask*.
[131] Lynn Stephen, "Sexualities and Genders in Zapotec Oaxaca," *Latin American Perspectives* 29 (2002): 48.
[132] Bernal Diaz de Castillo, *Yucatan Travelogue*, (1517) quoted in Walter Williams, *The Spirit and The Flesh: Sexual Diversity in American Indian Culture*, (Boston, MA: Boston Press, 1986), 135
[133] David Carrasco, *Religions of Mesoamerica, 2nd ed*. (Long Grove, IL: Waveland Press, Inc.: 2013), 99.
[134] Francis Mondimore, *A Natural History of Homosexuality* (Baltimore, MD: John Hopkins University Press, 1996), 14.

restrict war captives from worshipping their homosexual deities and now conquered or killed rulers who embodied these deities.[135] Punishments for homosexuality included impalement, taking organs out through the anus, hangings, and strangling.[136] An account written by Cortés claims that on *Noche Triste*, or "the Sad Night," the Aztecs screamed *cuilone*, or "queer," at the Spanish who were retreating in boats.[137] Although this cannot be confirmed, this account demonstrates the extent the Mexica-Aztecs were viewed as normalizing antiprotoqueer terms by the conquistadors. Although the Spanish colonial project did imbue antiprotoqueer thought through catechization, this reference to the Mexica-Aztecs as homophobic *prior* to Spanish arrival does not capture all the nuances of sexuality and religious worship among the totalality of Mexica-Aztec tribes.

This unprecedented level of acceptance among many Indigenous nations and groups (Maya, Zapotec, and some peoples assimilated into Mexica-Aztec governance) juxtaposed against the limited and restricted antiprotoqueerness among some Mexica-Aztec peoples was culture shock to the Spanish, who already had a branch of the Inquisition exclusively dealing with and lowering the frequency of sodomy in Spain. The short-lived *La Primitiva Inquisición* (1522 - 1569) (The Primitive Inquisition) and *Las Campañas de Extirpación de la Idolatría* (1500s, periodically throughout the 17th and 18th centuries) (The Extirpation of Idolatry Campaigns) failed miserably at truly converting Indigenous peoples and instead killed many.[138] The Crown wanted subjects – *Catholic* subjects – to save through conversion and then constitute

[135] Gabriel Estrada, "An Aztec Two-Spirit Cosmology: Re-sounding Nahuatl Masculinities, Elders, Femininities, and Youth," *Frontiers: A Journal of Women Studies* 24, no. 2 (2003): 13.
[136] Mondimore, *A Natural History of Homosexuality*, 16.
[137] Hernan Cortes, *Noche Triste* (1520) in Salvador Novo, *Las Locas, El Sexo, Los Burdeles* (Mexico City, Mexico: Novaro, 1972), 43.
[138] Richard E. Greenleaf, "Historiography of the Mexican Inquisition: Evolution of Interpretations and Methodologies" in Mary Elizabeth Perry and Anne J. Cruz, eds., *Cultural Encounters: The Impact of the Inquisition in Spain and the New World* (Los Angeles, CA: University of California Press, 1991), 258-65.

the empire, so these attempts at extermination rather than conversion were quickly recalled.[139] When Spain encountered these peoples, they slowly began to realize the power negotiation had. To demonstrate their willingness for negotiation, they established *La República de Indíos* (The Republic of Indians) and made it illegal to try Indigenous people in the Inquisition.[140]

Therefore, the connection between banning the trying of Indigenous peoples in the Inquisition and banning the Mexican Inquisition from trying sodomy were not coincidental, but rather, they co-constituted each other. By pairing the creation of these laws by the Spanish Crown with the contemporaneous reports of conquistadores encountering sodomy everywhere they went in the New World, it becomes clear that the Spanish deemed the New World Indigenous population to be sodomites in every definition of the term. In the late 16th and early 17th centuries, the friar Pedro de León returned to the concept of "la lacra" and began to emphasize how all sodomy came from abroad and was not a condition inherent to Spaniards.[141]

While never explicitly writing about the New World as a site of contention, specifically because of his focus on Italy and Turkey as sites of sodomy, de León does emphasize the importation of sodomy from creole officials and clergy in New Spain. He writes about the friar Pascual Jaime's trip to New Spain and the accusations of sodomy against him, writing the following warning: "be wary [of the] harm that such a man can cause the Republic."[142] The notion that the New World was a source for the plague of sodomy is explicitly discussed in the travelogs of other friars and conquistadors in Mexico and Peru. Fray Cieza de León, upon his travels in Peru, wrote that "many husbands remained home weaving and performing other

[139] Richard E. Greenleaf, "The Inquisition and the Indians of New Spain: A Study in Jurisdictional Confusion," *The Americas* 22, no. 2 (Fall 1965): 141.
[140] Greenleaf, "The Inquisition and the Indians of New Spain," 141.
[141] Garza Carvajal, *Butterflies Will Burn*, 39.
[142] *Compendio de algunas experiencias* (1628), Biblioteca de la Universidad de Granada (BUG), ms. 573, tomo 2, fols. 287v–290v.

effeminate or feminine labors."[143] The famed explorer and conquistador Bartolomé de Las Casas also wrote in 1566 that "the inhabitants of occident [are] more effeminate, bland, and weak-hearted" than Spaniards.[144] It is clear that the New World was stereotyped from the very start of colonization as a place of sodomites and effeminacy that had the potential to infect the "lacra" of sodomy on Spaniards. What were the Spaniards, then, to do about this 'infestation' in a land they wanted to make part of their empire?

While they despised sodomy as anti-Catholic and inherently heretical in Spain, this same approach to the death penalty for every sodomite encountered in New Spain would not be feasible. Essentially, so many Indigenous peoples were deemed to have been protoqueer, that to give them a chance to flesh out heresy and provide leniency to those Indigenous peoples that were protoqueer, they chose not to charge it at all in the Mexican Inquisition as a symbolic gesture of negotiation.[145]

This is where the idea of the homophilic New World becomes cemented in the minds of Spanish colonists and the myth of the empire. The homogenous structure of Spanish society versus the heterogeneous structure of Mexican society provided vast differences in approaches to the Inquisition. New Spain was a land of thousands of Indigenous peoples with two major empires extant at the time of conquest: the Mexica-Aztec Empire and the Purépecha Empire. Spanish conquest uprooted all these cultures, and soon, Africans would join this patchwork of identities too. The result of this was the creation of Mexican *mestizaje*, or mixed-race heritage and culture, unlike any type of culture experienced in Spain before. Mexican mestizaje was

[143] P. Cieza de León, *La crónica del Perú* (1553).
[144] Bartolomé de las Casas, *Apologética historia sumaria: cuanto a las cualidades, dispusición, descripción, cielo y suelo destas tierras, y condiciones naturales, policías, repúblicas, manera de vivir e costumbres de las gentes destas indias occidentales y meridionales cuyo imperio soberano pertenece a los reyes de castilla*, vol. 1 (1552).
[145] Tortorici, *Sins Against Nature*.

drastically more influenced by outside cultures than Spanish mestizaje. Eleno de Céspedes, for example, was a mulato born to a poor Castilian father and an enslaved Andalusi Moor while Antonio de Erauso was Basque, an Indigenous group in Europe that lives in northeastern Spain and southern France. Prior to the fall of the Nasrid Kingdom of Granada in 1492, there were about six major groups of people living in Iberia: the *Moros* (Moors, which included both the Indigenous North African *Bereberes*, or Berbers, and traditionally Muslim Arabs), *Mozárabes* (Christians in Al-Andalus), *Muladí* (Iberian converts to Islam in Al-Andalus), *Mudéjares* (Muslims in Christian lands), *Cristianos* (Christian Iberians in the northern lands, who spoke many languages like Catalan, Castilian, Portuguese, Astur-Leonese, Galician, Valencian, Aragonese, and other Romance languages), and the *Sefarditas* or *Sefardíes* (Sephardic Jews). There were also *Calés*, or Iberian Roma, too.[146] However, this patchwork of peoples and languages soon would come to be assimilated into Cristiano culture with the expulsion edicts created by the monarchs Fernando and Isabel, such as the *Alhambra Decree*, which would force all Muslims and Jews to convert to Christianity or seek refuge in the Ottoman Empire or North Africa.[147] Castilian would soon come to be the dominant language and culture of Iberia and its empire in the following century.

The decline of Spanish mestizaje and creation of Mexican mestizaje were deeply intertwined with the prevailing importance of militant Catholicism and the categorization of perceived ethnic differences in the early modern era. Those Moors and Jews that remained in Iberia converted to Catholicism and were known as *Moriscos* and *Conversos*, but were still treated with such suspicion that the category of *Judaizante* (Judaizer) became crafted within the

[146] Joseph F. O'Callaghan, *A History of Medieval Spain* (Ithaca, NY: Cornell University Press, 1983), 176-80.
[147] Jinan Bastaki, "Reading History into Law: Who Is Worthy of Reparations? Observations on Spain and Portugal's Return Laws and the Implications for Reparations," *Islamophobia Studies Journal* 4, no. 1 (2017): 115–28.

Spanish and Mexican Inquisitions to punish anyone who practiced these religions in secret.[148] Hence, while most of the 'issues' that had been plaguing the lacrale of Al-Andalus were now solved by the Reconquista, the sheer rupture in New World cultures and newfound conquests and assimilation attempts became the new focus of the empire.

The "Spanish," technically Cristianos of many different backgrounds at the point in the conquest of Mexico and now the majority in Iberia, were the minority in Mexico. In an attempt to instill order, the Spanish would create a variety of social systems in New Spain, but all of them, including the infamous *sistema de castas* that developed from the limpieza de sangre statutes in Spain, were idealistic and were not enforced as clearly upon the plebeian society.[149] The primary categories of *Indio* (Indigenous), *Negro* (African, typically enslaved), *Español* (Peninsulares, or Iberian-born Spaniards), *Criollo* (American-born Spaniards), *Mestizo* (Indigenous-European descent), and *Mulato* (African-European descent) were widespread across Mexico, but many people self-identified and could use factors like religion, dress, skin color, language, adoption status, and culture to change their ethnoracial category, which rendered the system ineffective at enforcing stable social order.[150] Other *Casta* categories like *Zambo*, *Coyote*, *Lobo*, *Castizo*, and *Morisco* also were used sporadically.[151] As time went on, this inability to enforce stability evenly across Mexico became a forefront problem for the Spanish.

Gender and sexuality further complicated these dynamics of "ethnorace" or "proto-race." A racialized subject, like a mulato, who performed whiteness through Spanish dress, marriage,

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[148] See *Inquisition Proceedings against Isabel, Wife of Bachiller Lope de la Higuera, 1484* and *Inquisition Trial of Pedro de Villegas, 1483-1484* in Lu Ann Homza, *The Spanish Inquisition: An Anthology of Sources* (Indianapolis, IN: Hackett Publishing, 2006) for just a few examples of procesos for judaizantes.
[149] David Tavárez, "Legally Indian: Inquisitorial Readings of Indigenous Identity in New Spain" in Andrew B. Fisher and Matthew D. O'Hara, eds., *Imperial Subjects: Race and Identity in Colonial Latin America* (Durham, NC: Duke University Press, 2009), 81-2.
[150] Tavárez, "Legally Indian," 81-2, and Cope, *Limits of Racial Domination.*
[151] Tavárez, "Legally Indian," 81-2.

Christianity, customs, or other *Castellanidades* (Castiliannessess), has the potential to move up the social ladder. However, if that same person was gender-diverse or sexually deviant, especially effeminate or passive, their ability to assimilate collapses.[152] Gender and sexuality, then, has the potential to re-racialize. The stigmatization of sodomy with Africanness and Indigeneity, then, could also denote someone as non-Christian and racially inferior (or in the Spanish case, as not Spanish enough and instead assimilable to the New World). A man who failed to act Spanish in this stereotyped gendered sense of the concept, would then be pushed of castellanidad or mestizaje into the "contra natura." In some ways, gender and sexuality could become an anchor to racial meanings: for good or for worse.

These fears are perfectly elucidated in the case of Cotita de Encarnación. While the Viceroys and the Crown attempted to portray that there was a strict racial hierarchy in the colonies, like through the infamous *Pintura de Castas* (Casta Paintings), this was simply a facade as there was not a true caste system and there was much ambiguity and fluidity in ethnic distinctions. Cotita's house was a well-known site for homosexual and gender transgressive activity where people of all different classes, castas, and ethnoraces existed. In a sense, the idea that people of all these different backgrounds could establish some type of system where they knew the location of Cotita's house from across Mexico and that it was a safe space for people to perform sexual and gender transgressions epitomizes the lack of stability in the categories created within New Spain. With Cotita's case came an unsettling truth for the Inquisition: gender and sexuality-related transgressions saw no ethnic, political, or socioeconomic boundaries in colonial Mexico. The idea that hundreds of people from entirely different walks of life – a rich Español, an enslaved Negro, and poor Indios, Mestizos, and Mulatos – could have same-sex

[152] Tortorici, *Sins Against Nature*.

desire and act upon it frequently meant that social transgression of all the boundaries set in Novohispanic society was likely more common across Mexico than the Spanish would have liked to admit. This trend of Mexico potentially having a higher 'frequency' of sodomy cases than lines up with the notion that Mexico was a hotbed of rupture and 'social instability' that the Spanish needed to punish into domination.

In many ways, Cotita's case is the antithesis of de Erauso's and de Céspedes' cases. Instead of presenting as a man, she presented as a woman. Instead of being sexually chaste and seeking marriage, she slept with many men across of ethnic backgrounds. It is important to remember that women effectively had more rights when single than in a relationship as they could put into practice more of their own goals and needs without having to ask their husband for approval.[153] If their husband stole money, for example, that could reflect on them and bring down their honor. If a man's wife cheated on him with a man of higher rank, that could bring down his honor. Therefore, when single, honor was something a person had to develop through their own individual actions, but when in a conjugal unit, it had to be developed and maintained together.[154] That said, honor had to be protected. For women, there were limited ways their honor could be developed and maintained, but for men who had more freedoms, there were a multitude of manners to generate honor.[155]

While figures like Antonio de Erauso and Eleno de Céspedes were able to perform masculinity so convincingly that it granted them access to honor and even protected them from the death penalty of the auto-de-fe, Cotita de Encarnación represents the inverse: a racialized,

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[153] See Lucy A. Sponsler, "The Status of Married Women Under the Legal System of Spain," *The Journal of Legal History* 3, no. 2 (September 1982): 125–52 for a detailed analysis of women's rights within Spain and the Spanish colonies.
[154] Burkholder, "Honor and Honors in Colonial Spanish America" and Twinam, "The Negotiation of Honor."
[155] Lyman L. Johnson, "Dangerous Words, Provocative Gestures, and Violent Acts" in Lyman L. Johnson and Sonya Lipsett-Rivera, eds., *The Faces of Honor: Sex, Shame, and Violence in Colonial Latin America* (Albuquerque, NM: University of New Mexico Press, 1998), 127-51.

effeminate ‘male’ whose gendered and sexual transgression exposed the structural limits of the honor system. Whereas women could ascend into masculine-coded privilege through performance, Cotita could not descend into femininity without incurring degradation. The honor system, built by and for elite white men, could accommodate female-to-male transgression when it upheld patriarchal power, but could not tolerate male-to-female transgression, especially when it intersected with race and sexual deviance. Cotita subverted masculine honor by embracing femininity, effectively reversing the hierarchy, becoming dishonorable, shameful, and sinful, exposing that a ‘man’ who ‘falls’ into femininity is marked by dishonor beyond repair. Her race as a mulata, then, instead of attesting to her white heritage by embracing honor like in Eleno’s case, instead disqualifies her from honor by the ‘tainting’ of her Africanness. Cotita, then, was the ultimate “other:” not a man, not white, not honorable, and most of all, not redeemable: a true limit case that exposes how not only women could be submissible, but men too.

Instead of Spain, then, which had a stable grasp of punishing protoqueerness, Mexico was then a site where policing was deemed more necessary. Hence, the result of Cotita’s case was the largest auto-de-fé of sodomites in Mexican history where fifteen sodomites were sentenced to death by burning at the pyre in San Lázaro, Mexico City, after a procession through the *zócalo* (town hall square) while wearing sanbenito pendants and robes, including Cotita. The only minor in this case received 200 lashes. The Inquisition must have recognized the shame that burning high-ranking European-descent individuals would have caused and how this would have disturbed the facade of control the *Virrey* (Viceroy) had, so every Criollo and Español was saved and none of their consequences, if they received any, are logged in the proceso.[156]

[156] AGN, Inquisición 38.N57C, 1657, Exp. 57.

As evident, the Mexican Inquisition's focus on transgression of social boundaries is indicative of wide-scale instability in early modern Mexican society. In the case of sodomy, corporal punishment in the form of the auto-de-fé, such as the result of Cotita's trial, served as an example to society of what transgressing the boundaries Spain had set would result in: public shaming, lashes, and at its worst, death. The unevenness of colonization in New Spain led to societal rupture never before witnessed in Iberia, and as Spain's attempt to instill order proved artificial, the Mexican Inquisition diverged greatly from the Spanish Inquisition in its approach and discussion of the crime of sodomy.

A Metropole and Its Colony: Same Enemies, Different Values

Although both governments in Iberia and in New Spain were against sodomy in their nation-building projects and believed it to be anti-Christian, they both had vastly different approaches to speaking on sodomy within the Inquisition. Mexican sources tend to mention transgression and Spanish sources mention honor. But why do these two courts speak about sodomy so differently?

The metropole of Spain, where the Crown itself was located, had power over all the Inquisition courts across the Americas. Therefore, it had to represent itself as the center of power to all its colonies, especially in light of its newfound dominion over almost all of Iberia post-Reconquista. Hence, social status was especially important in Iberia as it attempted to maintain its power. For example, the conquistadores, meant to represent the power of Iberian conquest, were depicted in statues and art as muscular men wielding a sword in full honor, decorated with metals, and were known to have a whole harem of Indigenous women (in addition to their Spanish wives), as well as enslaved people and rich, large encomiendas, like Cortés' encomienda — the largest in all of the Americas.[157] The stories of El Cíd, the only Cristiano soldier to take

[157] Restall and Lane, "The Chain of Conquest," 85-109.

back some Andalusian land during the golden age of Convivencia, and the stories of Santiago Matamoros, or St. James the Moor-Slayer, also provided these conquistadores with idolized images of what it meant to be a successful soldier in conquest.[158] Historians Matthew Restall and Kris Lane summarize the story of Santiago and its importance in conquistador legend by discussing how the image of Santiago Matamoros on a white horse while defeating the Moors became ingrained into the military culture of Spain: Conquistadors in Mexico screamed "Santiago!" as their battle cry while charging Indigenous armies, painted Cortés as Santiago, and etched him onto the walls, ceilings, and facades of churches across Spanish America.[159]

These myths of success, tied to honor and status, were what many soldiers aspired to be. What many statues and myths did not depict was the amount of trouble these rapacious greedy selectively Christian conmen and soldiers caused the Crown. Pizarro, for example, caused a civil war in Peru and was supposed to go to jail for the violence caused against Indigenous Inka peoples. Cortés was said to have possibly murdered his Spanish wife.[160] This was not what the Crown wanted to represent their power, but also their honor, the social contract that demonstrated to Indigenous peoples they would uphold their power of negotiation. Honor was more than just a representation of the individual citizen of Spain, it was a representation of the power of the Crown and its willingness to compromise while still maintaining the upper hand as the colonizer.

Despite these troubles, the rumor of striking it rich and being given enslaved people and estates for conquering new lands was widespread in Iberia, encouraging many people to join the army and head to the New World. Both de Erauso and de Céspedes joined the army amid all this

[158] Restall and Lane, "Castile and Portugal," 21-34.
[159] Restall and Lane, "Castile and Portugal," 21-34.
[160] Hugh Thomas, *Conquest: Cortes, Montezuma, and the Fall of Old Mexico* (New York, NY: Simon & Schuster Books, 1995), 580-2; 635 and Archivo General de Indias, Justicia, legajo 220, ff. 316-42.

exploration of the New World. De Céspedes, having Moorish ancestry, was banned from exploring the New World.[161] De Erauso, however, took up on the opportunity and travelled across South America before settling in New Spain. In this sense, for those that joined the army in Spain, to be a citizen was to have honor and be useful to the state, and they used the opportunity of conquest to make themselves useful.

It is important to note that the amount of procesos for tried sodomites in the Spanish Inquisition were tied between the army, clergy, and servants, making up to 60% of total cases.[162] While I have been focusing on the army, the trials about the clergy and servants also mentioned forms of honor in Spain, and were also common in New Spain as well. Take the following sodomy trial for the Franciscan priest Nicolás Hidalgo in Taos, New Mexico, for example:

> The Indians insisted that I should go to investigate the sins against nature and the infamous actions that the priest was doing against some members of the community. The Indians asked me to report to the Holy Office these disturbances. The Indians declared this before me and the Holy Office. An Indian that was named 'el mulatto' accused father Nicolás Hidalgo of committing the abominable sin with him. He explained using his hands and his body to show what father Hidalgo did with him. In addition, another Indian named Francisco Qualene made a similar declaration against father Hidalgo." (This is not a literal translation, rather a personal interpretation that did not change the meaning of the text). See AGN, Inquisición, Vol. 38, Exp. 22, fs. 441-442.[163]

Indigenous Puebloans accused the *padre* of sodomy and went straight to the local alcalde to report him to the Inquisition for such crimes. A man of God – the Christian God – had abused his role as an authority figure and person responsible for carrying on the negotiations of conversion Spain had wanted to see happening in New Spain. His actions of abuse towards the Indigenous population were an invasion of trust and a lessening of his own honor. In fact, Indigenous

[161] See Karoline P. Cook, *Forbidden Passages: Muslims and Moriscos in Colonial Spanish America* (Philadelphia, PN: University of Pennsylvania Press, 2016) for a full study of the pureza de sangre on Moriscos and the exceptions in which some Moriscos traveled to the New World.
[162] Kamen, *The Spanish Inquisition*, 277.
[163] De Los Reyes, "Curas, Dones y Sodomitas,' 69.

peoples reported sexual abuse by priests all over New Spain, such as in this anonymous Maya petition to the Inquisitorial office:

> Only the priests are allowed to fornicate without so much of a word about it. If a good commoner does that, the priest always punishes him immediately. But look at the priests' excessive fornication, putting their hands on these whores' vaginas, even saying mass like this. God willing, when the English come may they not be fornicators equal to these priests, who only lack carnal acts with men's anuses. God willing that smallpox be rubbed into their penis heads. Amen. I father, the informer of truth.[164]

While this source speaks to heterosexual sexual abuse, it claims that the priests of New Spain were never engaging in sodomy despite there being obvious evidence that it did occur. This points to the nature by which these sodomitical actions were covered up by local bishops and courts, sometimes only made public depending on the severity of the claims and if Inquisitorial review was called deemed necessary. The Indigenous peoples of New Spain felt abused and betrayed by their actions, and men were clearly viewed as dishonorable and distrusted by the very people they were meant to protect. This anonymous Maya writer played on fears of English colonial competition to attempt to force the Inquisition into action, even supporting the English anti-Spanish and anti-Catholic propaganda that accused the Spanish church of covering up sexual sins and corruption.[165]

All-in-all, sodomy and other sexual transgressions among priests were clearly a phenomenon in New Spain just as it was in Spain. The same can be said about cases of sodomy among servants.[166] What makes the army unique in sodomy cases is its isolation and relative

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[164] "Anonymous Mayan petition to the Inquisitional Office" quoted in Pete Sigal, "Gender, Male Homosexuality, and Power in Colonial Yucatan," *Sage* 29, no 2 (2002): 92.
[165] See Philip Wayne Powell, *Tree of Hate: Propaganda and Prejudices Affecting United States Relations with the Hispanic World* (Albuquerque, NM: University of New Mexico Press, 2008) for a detailed examination of the Black Legend and the legacy of British propaganda against Spain in United States foreign relations with Latin America today.
[166] See María Guadalupe Chávez Carbajal, *Propietarios y esclavos negros en Valladolid de Michoacán, 1600–1650* (Morelia, México: Universidad Michoacana de San Nicolás de Hidalgo, 1994) for an extensive study of enslaved lifeways, including sodomy among the enslaved/servants, in the state of Michoacán, México.

prominence in Spain. While there has been no in-depth search for army men sodomy cases in New Spain, it is likely there is a distinct lack of evidence for such in local archives and the Inquisition. While this does not mean that it was not happening, the sheer limited stations and number of men in the Novohispanic army can also explain this gap.[167]

In Spain, joining the army not only gave gender-diverse men an opportunity to affirm their masculinity and men with same-sex desire a homosocial space to engage in sodomitical sex, but it also gave the opportunity for them to gain honor through rank and serving the colonial project, which in turn gave them the opportunity to travel to the boundaries of the empire where Inquisitorial view was limited and they had additional freedom to live authentically. In fact, the idea that protoqueers took advantage of and could recognize the opportunities of moving to places where this rupture was omnipresent could provide an additional explanation to the importance of the army in the metropole for protoqueers. The New World, a place being conquered and consistently explored with many peripheries and places where Spanish authority was in question or not solidified, offered opportunity for protoqueers to flourish. De Erauso, for example, was able to live as a man in the army as a foot soldier travelling South America for years before admitting his sex, being sent back to Spain under religious supervision, then choosing to move back to the New World to settle in Veracruz, Mexico and make a name for himself as a boatmaker.[168] As the only gender-bending individual in Spanish history to have written an autobiography and explained his military feats and how he was able to exist as a man in the army and settle in New Spain, it is obvious that some protoqueer individuals truly joined the army to gain rank and honor and take advantage of the conquest of the New World. These protoqueers were then able to make a name for themselves and ensure that if they ever were

[167] Shy, "Armed Forces in Colonial North America," 10-26.
[168] Ministerio de Cultura, Archivo General de Indias, Contratación, 5408, No. 41.

caught that their honorable service to the colonial project could lessen the impact or perhaps render them blind to the Inquisition in Spain. Therefore, it is no surprise that in cases where the Spanish Inquisition tried gender-diverse individuals and those with same-sex desire that served in the army, especially in the prominent and well-known example of de Céspedes (and eventually de Erauso), their military service and distinguished rank and honor lessened their sentences and was, without fail, a topic of discussion when determining a punishment.

On the other side of the Atlantic, however, Spain recognized the importance of assimilation and negotiation in the New World, so it exercised its power to provide negotiation in the Mexican Inquisition courts by making it illegal to try Indigenous peoples and banning the Mexican Inquisition from actively trying sodomy cases that did not directly involve heresy. This drastically shifted the frame of reference and the grammar by which gender diversity and same-sex desire were discussed in New Spain. While these individuals in the army were on the side with the power and the authority to dominate and rule the New World, Mexicans were both *the colonized* and *the spoils of conquest*. This has a drastic impact on how honor was conceptualized in the New World. While everyone had honor, Indigenous peoples, Africans, and Castas in New Spain were broadly viewed as backwards and within far proximity from *castellanidad*, or Castilianness, and therefore their honor had to accrued through assimilation of Christianity, the Castilian language, Spanish ways of dress, Spanish mannerisms, and overall the newly created mestizo lifeways generated through negotiation.[169] In this sense, Spanish honor could be viewed as more "authentic," while Novohispanic honor was viewed as an imitation of Spanish rank.

This is exemplified in the case of Cotita de Encarnación and the many other men who experienced same-sex desire, or those who were gender-diverse, who took on the lifestyles of

[169] Cope, "The Significance and Ambiguities of Race," 49-67.

Spanish women and men. Cotita was said to wear a headscarf, cook tortillas by hand, care for men of all ages, and refer to them as *mi amor* and *mi vida*, my love and my life, respectively, *como si una mujer*, like a woman.[170] Cotita, as a mulata, attempted to freely occupy the social category of gender that creole women could embrace freely. In fact, many *pasivos* (passive gay men) and *prostitutas* were known to imitate the lifestyles of creole women as this was the archetype for female freedom at this time.[171] Creole women were well-educated, had some money for themselves, and dressed well, but also had to perform domestic duties such as taking care of children, cooking for the family, and supporting her husband.[172] It was practically impossible to reach the ranking of peninsular women who had servants and maids who fed the family and took care of the children if one was not from Spain, but it was possible to reach the status of creole woman through marriage and adopting Spanish customs. Hence, the idea of imitation and inauthenticity, especially in the realm of gender roles, was created through the unevenness of colonization in New Spain.

It is important to remember that Mexico was the lacrale. It was a land the Spanish empire truly believed needed to be spiritually conquered and castilianized. This is why Spaniards and Creoles were exempt from the auto-de-fé in cases like Cotita's – they had the potential to reform society.[173] This is a special type of honor. Spaniards in New Spain that engaged in same-sex desire and gender diversity were still Spanish at the end of the day and still were members of Spanish society that knew the customs, religion, and social codes the empire wanted to instill. Rather than get rid of them and waste their usefulness, they were instead granted leniency

[170] AGN, Inquisición 38.N57C, 1657, Exp. 57.
[171] Fernanda Nuñez and Pamela Fuentes, "Facing a Double Standard: Prostitution in Mexico City, 1521–2006," in *Selling Sex in the City: A Global History of Prostitution, 1600s-2000s*, eds. M. Garcia, L. van Voss, and E. van Nederveen Meerkerk (Leiden, NL: Brill Publishers, 2017), 442.
[172] Patricia Seed, "Social Dimensions of Race: Mexico City, 1753," *Hispanic American Historical Review* 62, no. 4 (Spring 1982): 587.
[173] Burkholder, "Honor and Honors in Colonial Spanish America" and Twinam, "The Negotiation of Honor."

because they were necessary to assimilating the empire. As the myth of the homophilic New World came to be solidified, the Native American practices that were blamed for the actions of those who had outward acceptance of protoqueerness were increasingly viewed as unnatural and corrupting, like the pestilence associated with the lacrales by the Catholic Spaniards. All the protoqueers that joined the army, then, were helping subdue the protoqueers in the New World, and while they may occasionally act *descastellano* (un-Castilian) and engage in these actions, the Crown was willing to negotiate and accept their importance to many other aspects of the colonial project and provide leniency based on service. Eventually, many of these army men settled in the New World after retirement with funds and land grants provided based on service, and therefore, could reap the long-term benefits of this service and guarantee their future.[174]

Overall, sources regarding sodomy in the Spanish Inquisition tend to mention honor, especially through a special focus on the army, and Mexican Inquisition sources mention social transgression through a special focus heresy and the crossing of gendered, ethnoracial, classist, and sexual boundaries. They both have to do with social perception, but the language surrounding sodomy differed greatly between the two systems. In Spain, to be a citizen was to have honor and be useful to the state, so gender-diverse individuals and those with same-sex desire used the opportunity of conquest and military service to make themselves useful and mitigate the potential damage the discovery of their preferences could cause them. The army also served as a space where gender-diverse men and homosexuals faced relative tolerance and very likely had clear sodomitical subcultures within. In Mexico, however, the entire lifestyles of Indigenous peoples were uprooted at once and they had little ways in conquest and assimilation to guarantee their honor could be respected and viewed as authentic to Spaniards. They were the

[174] Shy, "Armed Forces in Colonial North America," 10-26.

conquered – the other – while Spanish protoqueers were still at least Spanish. Ultimately, both courts punished sodomites greatly with death, but their reasons for punishing sodomites differed greatly.

(Re)linking Protoqueerness in Spain and Mexico

This comparative analysis of how the Mexican Inquisition and Spanish Inquisition charged sodomy identifies the army in Spain as an outlet that many early gender-diverse people and people in same-sex relationships utilized to affirm their protoqueerness in the early modern era. In joining the army, this directly tied honor to protoqueerness in early modern Spain. Meanwhile, the Mexican Inquisition differed greatly in its approach in that it focused on social transgression and attempts to instill order. Rather than speak on the army and honor like it was in Spain, one's ethnorace, casta, and class was highlighted when discussions of sodomy came up in the Mexican Inquisition. Consequently, the Mexican and Spanish Inquisitions differed greatly in the type of discussions they had around gender-diversity and same-sex desire, even though these conversations were taking place contemporaneously.

Gender-diverse individuals and those with same-sex desire have always existed in both Mexico and Spain. As much as Spain depicted the New World as one of many lacrales where sodomy was rampant compared to the chaste Christian cisheteronormative Spain, this depiction was idealistic, just as the many other social standards Spain set up for its colonies in the early modern period. Documents in local archives and the main Inquisitions take people out of their everyday lives and provide only a simple glance at who they were in a moment when their lives were at stake. It is important to remember that many of those deemed sodomites lived multifaceted lives and that their gender presentation and sexual orientation were but one part of these complex individuals. While all that might remain of their presence are tattered papers criminalizing them for being themselves, by studying the intricacies of their lives and reversing

the encounter in these procesos, historians can gain a better understanding of their lives by collecting documents of their trials, convictions, and existence and allow societies to remember the struggles they went through and how to avoid those mistakes again. This research, then, also serves as one more example of how gender has always been in flux and that there have always been people that experience same-sex desire. Alternatives to the cisheterosexual norm have always existed, and will continue to exist into the future.

We do not have concrete numbers for the amount of people tried versus convicted for sodomy within the Inquisitions in Mexico and Spain, but it is known that the Aragonese Inquisition, notorious for being the most vicious against sodomy, tried about 1000 individuals and convicted about 500.[175] Current numbers for the Mexican Inquisition are still being tallied. The ban on the Mexican Inquisition trying non-heretical sodomy makes it difficult to tally these numbers because the non-heretical sodomy was tried by hundreds of local courts across Mexico. From an investigative case study into determining these numbers done by Zeb Tortorici, the following archives were used: geographically diverse documents from over two dozen historical archives in Mexico, Guatemala, Spain, and the United States, especially Mexico's Archivo General de la Nación and Guatemala's Archivo General de Centro América.[176] Tortorici makes sure to explicitly state that he "[relies] equally on local (state, municipal, judicial, and notarial) archives from the Mexican states of Aguascalientes, Chihuahua, Colima, Guanajuato, Hidalgo, Michoacán, Nuevo León, Oaxaca, Puebla, Querétaro, San Luis Potosí, Tlaxcala, and Zacatecas."[177] He also consulted the Bancroft Library, the John Carter Brown Library, the Huntington Library, the Lilly Library, the Newberry Library, the Spanish Archives of New

[175] Cristian Berco, "Inquisition," Archived Social Sciences and History Encyclopedia Entries, 2015, http://www.glbtqarchive.com/ssh/inquisition_S.pdf.
[176] Tortorici, *Sins Against Nature*, 7-8.
[177] Tortorici, *Sins Against Nature*, 7-8.

Mexico (microfilmed at the University of Texas at El Paso), and the Latin American Library at Tulane University – all archives and special collections.[178] The last archive he used was the the Archivo General de Indias in Seville, Spain, which "held colonial sodomy cases from the galleons sailing between Spain and port cities in the Gulf of Mexico and the Caribbean."[179]

These archives hold almost the total of *contra natura* sodomy cases held across New Spain, which included Guatemala, most of Central America, Mexico, and the Southwest. From this survey, a compilation of every sodomy document within these archives led to a total of 327 documents to be analyzed.[180] While the reasons for why the local archives of the other eighteen Mexican states were not reviewed are not mentioned within his study, Tortorici does mention that there were significant archival absences (in terms of documentation), so the total number of cases is likely drastically higher than this current number, as much as triple.[181] Concurrently, the Spanish Inquisition operated from 1478 to 1834 and had conducted about thousands of trials for sodomy in just Iberia alone in that time.[182] Tortorici summarizes the Spanish Inquisition sodomy, emphasizing that in Aragón, 150 men were sentenced to death for sodomy or bestiality between 1570 and 1630.[183] In the time following 1633, there were no more sodomy convictions in Aragón. Seventy-one men were burned in Sevilla between 1567 and 1616, over one hundred in Madrid between the 1580s and 1650s, and in Palermo, Sicily (under Spanish rule), eighty-three men between 1567 and 1640 – all for sodomy.[184]

The Mexican Inquisition, which was not founded until 1571, over a century after the Spanish Inquisition, operated until 1821, and did not start doing intensive sodomy investigations

[178] Tortorici, *Sins Against Nature*, 7-8.
[179] Tortorici, *Sins Against Nature*, 7-8.
[180] Tortorici, *Sins Against Nature*, 8.
[181] Tortorici, *Sins Against Nature*, 8.
[182] Tortorici, *Sins Against Nature*, 8.
[183] Tortorici, *Sins Against Nature*, 71.
[184] Tortorici, *Sins Against Nature*, 71.

until the 18th and 19th centuries.[185] While we do not know the amount of death sentences within New Spain, Tortorici believes the number to have been higher than in Spain itself.[186] The remainder of these documents could be found in the additional local state archives Mexico or other special collections rather than within the Inquisition itself. Although further research into compiling and totaling the number of sodomy cases in the Mexican and Spanish Inquisitions should be completed, current numbers provide an excellent mode of comparison. Ultimately, the Mexican Inquisition was harsher at punishing sodomites than even Spain's most violent court.

It is easy to get lost in the hundreds of records that seemingly depict violence and death stack after stack, but as grim as it is, this research is necessary to uncover the lives of thousands of people executed simply for existing in a time of extreme rupture. As historians proceed to study this topic and make these sources accessible to the public, the importance of moving beyond the Inquisition itself and paying attention to local archives cannot be understated. The Inquisition only provides a fraction of the total number of sodomy trials in the Americas based on the heresy committed, and these local archives are where the majority of sodomy persecution records are held. A thorough study of attitudes towards sodomy across the Americas cannot be performed without considering how plebeian society viewed these individuals too. Records of sodomy are thoroughly compiled in Spain since the Inquisition was in charge of all sodomy cases, which has led to more accurate and thorough studies of sodomy within Spain being conducted. However, the history of sodomy within the Spanish Empire can benefit from a thorough study of sodomy within the Spanish army and the lives of these individuals persecuted. While I have brought forth two cases of sodomy within the army, there are hundreds of

[185] Tortorici, *Sins Against Nature*, 9.
[186] Tortorici, *Sins Against Nature*, 73-7.

additional cases that deserve to be analyzed to improve our understanding of why this phenomenon was so prominent in Spain yet limited across its colonies.

Further research on these topics has the potential to provide key insight into how 'illicit sexualities' and 'gender transgressions' were systemically and legally created, as well as the sociocultural reasonings behind these attitudes. Oftentimes when discussing subjects such as homosexuality, bisexuality, and lesbianism; third and fourth gender groups; transgender identities and sexual 'deviancy' in colonial Latin America, Iberians are presented as a monolith seeking to represent themselves as the paragon of Catholic *cisheteronormativity.* Meanwhile, all other *ethnoracial* groups are the populations these 'sins' are native, like how homosexuality was deemed an issue of the Mexica-Aztecs, Maya, and other Indigenous Mexicans.[187] In this paper, I instead pluralize and emphasize the role queer Iberians had within defining these notions of tolerance, deviancy, and religiosity rather than glossing over their experiences and historical persecutions. In doing so, I have not only challenged the colonial myth of the "homophilic New World, homophobic Old World," but have also provided an explanation for the origin of the difference in perceptions and attitudes within the Mexican Inquisition and Spanish Inquisition.

Many of these peoples persecuted and assimilated by the Spanish colonial project exist today, and the issue of their existence is still fraught. Queer populations within Mexico today, such as the *Muxes* of Oaxaca, have historically been viewed as anomalies of Indigenous gender and sexuality and as pre-Catholic abominations. They suffer high murder rates, sexual violence, and HIV stigma in tandem with lack of healthcare.[188] However, I have demonstrated that similar protoqueer groups existed within Iberia before and during the colonization of the Americas. I have recovered alternate paths that can aid in the broader destigmatization against these peoples

[187] Garza Carvajal, *Butterflies Will Burn*.
[188] See Mirandé, *Behind the Mask*.

within Mexico and Latin America. Queer communities across Latin America face a lack of support in many dimensions of everyday life due to the legacy of Catholic judgment, *machismo* and *marianismo*. By broadening and spreading knowledge on the historical origins of these systems of inequality within Iberia and Spanish colonization, I hope that this research can equip queer peoples across Mexico and the rest of Latin America with an arsenal of knowledge to support and act in decolonial movements and better their own futures.

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