



SINS AGAINST NATURE

SEX & ARCHIVES IN COLONIAL NEW SPAIN

Zeb Tortorici

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Sex and Archives in Colonial New Spain

ZEB TORTORICI

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*Confessionario en lengua Castellana, y Timuquana Con
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of the John Carter Brown Library at Brown University.

*I dedicate this book to three scholars
who are sorely missed and whose traces
can be found throughout its pages:*

NEIL L. WHITEHEAD

(1956–2012)

JOSÉ ESTEBAN MUÑOZ

(1967–2013)

AND

MARÍA ELENA MARTÍNEZ

(1966–2014)

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A NOTE ON TRANSLATION

Unless otherwise noted, all translations are my own. Throughout this book I rely on contemporary Spanish orthography and direct archival transcriptions in order to preserve the original linguistic flavor and materiality of the documents. This means that many of the Spanish-language terms in the endnotes appear to be misspelled or inconsistently written, and they are often missing proper accents (or, at times, include accents where none are needed). This is especially evident in testimonies and confessions where the proper accent in the third-person preterit tense of Spanish verbs is typically omitted. Thus, when readers encounter what appear to be present-tense verbs in the first person—as in the phrase “teniendola por los cuernos la fornico doz vezes”—they are actually written in the third person, with nonstandard spellings and without proper accents. Modernized spelling would be “teniéndola por los cuernos, la fornicó dos veces” (restraining her [the goat] by the horns, he fornicated with her two times). Spelling inconsistency is also why, for example, you will see the word and legal category of “Indian” spelled both *indio* and *yndio*, depending on the document and scribes in question. With the exception of proper names, I have opted not to modernize either spelling or punctuation in the book, since direct transcriptions are more faithful to the documents themselves and give the reader a better sense of archival and linguistic conventions in flux.

Throughout the book, readers will see references to archival documents that are typically classified in terms of *ramo* (branch), *expediente* (file), *legajo* (file or bundle), *progresivo* (progressing [chronologically] toward), *cuaderno* (folder), *caja* (box), and folio or page number. Occasionally, however, no box or file number exists in a particular archival collection, and folios sometimes remain unnumbered. While I have tried to add original quotes of all of the archival document excerpts I use throughout the book, they are not necessarily direct translations. At times, I add long quotes from which I paraphrase and include shorter translations. At other times, I provide a full translation (in the main text) of the original Spanish, and sometimes only a translation of select words and

phrases. At times when I paraphrase a particularly fascinating quote from a document in the book, I often include longer portions of the original Spanish than what I am translating, for readers who know Spanish and may want to read in the original language (or, rather, what was interpreted into Spanish from Nahuatl or another indigenous language). Translation—like the very process of writing history itself—is necessarily partial and always incomplete.

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Introduction

Archiving the Unnatural

In an unremarkable box on a shelf of the municipal archive of Monterrey, in the Mexican state of Nuevo León, is a document with a story that is at once extraordinary and entirely mundane. That story relates how one day in 1656, Nicolás de Lares, a citizen of Monterrey, was walking through some fields when he came upon Lorenzo Vidales, a thirteen-year-old mestizo goat herder. Vidales was, according to Lares, standing under a tree committing the *pecado nefando*—the “nefarious sin” of bestiality—with one of his flock. Lares, observing the boy “with the said she-goat in between his legs,” took matters into his own hands: he interrupted the carnal act, tied up the boy, and whipped him. He then turned in the boy to the local *alcalde*, the colonial mayor who was, in this case, Spanish.¹ One witness noted that Lares could not help but whip the boy himself because the act was “atrocious.” Out of anger and perhaps due to other, more visceral, reasons, the boy’s boss had the black goat slaughtered, which certainly caused him some lost income.

For his part, Vidales was surprisingly forthcoming with the judge who, some days later, interrogated him. As was customary, the court-appointed notary transcribed the boy’s testimony onto paper in the third person, altering the words of witness and suspect alike from the first-person voice to the third-person “he.” The result, as we will see throughout this book, is that suspects, such as Vidales, appear to be speaking about themselves in the third person. This is a relic of notarial and archival processes, and is one of several mediations at the heart of the archive, through which documents come into history (and ended up in a box on a shelf). Vidales fully admitted his crime—“restraining the goat by the horns, he fornicated with her two times”—although he claimed ignorance that the act was sinful.² The criminal court tried the boy, found him guilty

of bestiality, and, because of his young age, sentenced him to be tied to the gallows by his waist and whipped one hundred times. This sentence, though harsh, was far from the maximum punishment for bestiality, which, at least in theory, was death.³ Afterward, authorities banished the boy in perpetuity from Monterrey and its surrounding kingdom of Nuevo León, sentencing him to six years of labor in a neighboring territory and specifying that he keep away from livestock and never again commit such a crime. Should Vidales ever return to Monterrey, authorities stipulated, he would face the death penalty.

This book is about the archiving of the “sins against nature” of sodomy, bestiality, and masturbation in colonial New Spain, which was Spain’s largest and most important colonial possession in the Americas, established in 1535 and lasting until 1821. These chronological endpoints mark, on the one end, the creation of the viceroyalty of New Spain in 1535, which followed the conquest of Mexico-Tenochtitlan by Spanish conquistadors under the leadership of Hernán Cortés from 1519 to 1521. On the other end, 1821 signals the culmination of the Mexican wars for independence from Spain, initiated by secular priest Miguel Hidalgo y Costilla in 1810. New Spain—or Nueva España, as it was known—was the first of four viceroyalties that Spain created in the Americas, and it comprised what is today Mexico, Central America, Florida, much of the southwestern and central United States, and the Caribbean (then known as the Spanish West Indies, which included Cuba, Haiti, the Dominican Republic, Puerto Rico, the Virgin Islands, Jamaica, and other islands). Starting in 1565, with the increased colonization of the Philippines that began in 1521, New Spain also included the Spanish East Indies, made up of the Philippine Islands, the Mariana Islands, and, briefly, parts of Taiwan.

The archives of New Spain are nearly as vast as the territory it once encompassed. When I first came across the story of Vidales and others like it more than a decade ago, I was stunned. Over time, in other seemingly unremarkable acid-free boxes, I uncovered hundreds of similar archival documents. Mexico’s numerous historical archives—national, state, municipal, notarial, judicial, and ecclesiastical—abound with documents related to the *pecados contra natura*—the sins against nature. The very everydayness of Vidales’s case—predicated on both (human) desire and (animal) death—is its value, for it demonstrates both reactions to and perceptions of unnatural acts by officials and everyday people alike, and it raises questions as to how and why such a crime was documented in the first place. There were those, like Lares, who found such sins to be horrible, repulsive, and requiring punishment. Others took a more lenient view, did not rush off to the authorities, and contented themselves with gossiping to

friends and neighbors about the scandalous nature of such acts. These diverse ways of speaking about the unnatural, we will see again and again, led to efforts to archive desire itself. Each archival document discussed here makes up part of this vast archive of unnatural desire.

While Lorenzo Vidales was spared the death penalty, his still-harsh punishment tells us much about how secular criminal courts both dealt with and documented such crimes in the mid-seventeenth century. What were the motivations of the court in assiduously—graphically—recording the details and outcome of the case? What were the social and bureaucratic mechanisms through which such a crime came to be denounced, textually recorded, and archived in a way that was meaningful for Spanish colonial authorities? How are all the emotions and motivations that created these documents eventually archived, and thus made into the basis for our understanding of history?

All these questions lead to another one: Why was I so surprised by the abundance of bestiality cases in the archives? The answer, I think, is that the histories of sodomy and sexuality are generally talked about in more narrow ways. Historians of colonial Latin America, for example, have largely examined the sins against nature through the lens of same-sex sexuality and “homosexuality.” Yet how have historians and archivists, perhaps unwittingly, relegated certain acts to the margins of historical inquiry and archival ontology? And how do historical (and historicized) perceptions of such crimes—seen as “abominable,” “sinful,” or “against nature,” for example—influence, and to some extent determine, how contemporary archivists and researchers engage with those documented desires? To what extent are we ourselves—the archivists who appraise and order documents, the researchers who consume them, and the readers of the histories written about them—implicated in a kind of historical voyeurism?

This book uses the sins against nature to examine the ways in which the desires of individuals and communities came into contact with the colonial regulatory mechanisms of New Spain, and then with its ensuing archival practices, between the sixteenth and early nineteenth centuries. To pursue this investigation, we must move from what Ann Stoler terms the “the archive-as-source to the archive-as-subject.”⁴ Hence, my focus here is on the social and intimate worlds of colonial sexuality and on the very practices of archiving sex and bodies, which offer archivists and historians some glimpse into the lived, conflicted desires of the past. This book demonstrates how “textual imperial power”—that is, the paperwork of the crown, the judiciary, and the Church, through which colonialism was maintained—was enacted both on and through the body.⁵ The result reveals connections between the ways that

events (and the desires that inspired those events) are documented, the way those documents are archived, and the way that history itself is narrated and written. In its simplest form, this book is a social and cultural history of the regulation of “unnatural” sexuality in New Spain. But I depart from many histories of sexuality in that I focus not simply on historical mechanisms of repression, or on the social practices and desires of individuals or groups. Rather, this project reveals the ways in which bodies and their attendant desires come to be archived in the first place, and points to how the archive—as both a place and a concept—shapes our own connections to the past.

To trace these connections, it is worth delineating the different stages of the archival process. First, as in the case of Vidales, we have the person who *performs the act* that is deemed worthy of being recorded. Second, we have a chain of witnesses who *view and relate the act* to authorities, who then document the “denunciation”—the formal term for describing the accusation that a crime has been committed. Next comes the *escribano*—the court-appointed notary or scribe—who documents the accusations, testimonies, and confessions, thereby *recording the act* on paper. Then we have the archivist or bureaucrat who *files away the document* in some type of archive. These documents are subsequently *appraised and cataloged* by future generations of archivists and historians, who may find the documentation (or may not), who may alter its place and classifications within the archive, and who may write about it. What we will see in all such archived desires is that there is a tension between how we, as archive consumers, want these desires to behave and how they actually do. We often want to believe that desires, whether they be those of the Church or those of the “sodomite,” are archivally stable, that we can make sense of them. The reality is that the desires of either the past or the present are inherently messy, complex, and resistant to categorization.

Archival Origins

As we open the box and uncover Spanish efforts to regulate the sins against nature, we are confronted first and foremost by the terms themselves. The “sins” of Lorenzo Vidales were determined centuries before his birth—the work of a long, and institutionalized, chain of reasoning going back to early Church fathers such as Saint Augustine and medieval theologians such as Thomas Aquinas. As early as the fifth century, for example, Saint Augustine had deemed unnatural and sinful any of those sexual acts that did not take place in the “vessel fit for procreation” (i.e., the vagina).⁶ Thus sodomy, bestiality, and masturba-

tion, and even unnatural sexual positions between men and women, were all “vices against nature,” included in the broader category of *luxuria* (lust). Aquinas, in his thirteenth-century *Summa Theologica*, wrote: “Just as the order of right reason is from man, so the order of nature is from God himself. And so in sins against nature, in which the very order of nature is violated, an injury is done to God himself, the orderer of nature.”⁷ Nature, in the eyes of the Church, is an eminently teleological structure in which proper desire was not for the sexual act itself but instead in the ideal result of that act—procreation. It is in this way that the sins against nature, which were delineated in social terms as contravening the institution of marriage, were defined centuries before New Spain ever existed, by a vision of sex that emphasized its procreative aim above all else.

Some clarification of the terms “sexuality” and “desire,” as I use them throughout this book, is warranted here. How might we speak of sexuality (and sexual desire) in an epoch before the advent of “sexuality”—a term, concept, and organizing principle of the self that emerged only in the nineteenth century? The equivalent Spanish-language term, *sexualidad*, appears in not one of the hundreds of archival documents on which this book is built. Yet the concept is useful for historians despite (or perhaps because of) its anachronistic ring. As Merry Wiesner-Hanks notes, early modern peoples “had sexual desires and engaged in sexual actions that they talked and wrote about but they did not think of these as expressions of their sexuality, and they defined what was ‘sexual’ in ways that are different than we do.”⁸ These differences, archival and historiographical, lie at the heart of this book.

The second term is even more loaded; I want to be explicit that “desire” here should not be viewed as a psychoanalytic concept. To speak of desire in the colonial past, we must, I believe, do our best to conceptually unmoor desire from its nineteenth- and twentieth-century psychoanalytic underpinnings. The ways I use “desire” here are how early modern and colonial contemporaries throughout the Iberian Atlantic world would have understood the Spanish-language or, more accurately, the Castilian-language term *deseo*, which is the word that recurs most in the archives. *Deseo* is etymologically tied to the Latin *desiderium* (desire) and *desiderare* (to desire), and was used first and foremost to refer to an ardent longing or yearning, for someone or something.

The 1611 *Tesoro de la lengua castellana o española*—the first vernacular dictionary of the Castilian language, published by Sebastián de Covarrubias—defines the term *desear* (to desire) as “to have desire for some thing” and explicates the term *deseado* (desired) as “the thing that is desired.”⁹ Covarrubias links

pleasure, desire, and consumption through *gana* (longing), which is “equal to desire, appetite, will, and those things for which we have an inclination and we long for, because we find pleasure and happiness in them.”¹⁰ The *Diccionario de autoridades*—the first dictionary of the Castilian language published by the Real Academia Española, in six volumes, between 1726 and 1739—also defines *deseo* in broad strokes: “Longing or appetite for an absent or not possessed good.”¹¹ Desire, in this and other examples, is connected semantically to appetite, or *apetência*—the “interior movement with which things are desired and longed for, and especially those that the body needs for its sustenance,” and vice versa.¹² Here, desire is also inextricably tied to absence.

Desire in the Iberian Atlantic world was often explicitly linked to erotic impulses, carnal desires, and sex, but not always. Desire in the early modern world must therefore be conceptualized within a much broader framework of longing, yearning, inclination, pleasure, and appetite—which were just as likely to take on both bodily and spiritual forms. It is in this vein that we will best understand desire in colonial New Spain—plural and interconnected, corporeal and spiritual, inextricable from the human, the animal, and the divine.

Given this more generous conceptualization of desire in the early modern past, this book seeks to offer a methodology of desire, interpellating the desires of the past with those of the present. We can, I think, rightly speak of individual instances of desire for the human, the animal, and the divine while we also elucidate bureaucratic manifestations of desire: colonial officials’ desires to edify subject populations (through rituals of exoneration and public punishment), priests’ desires to access the interiority of parishioners (through the sacrament of confession), and archivists’ desires to order and preserve (through classification and taxonomy). These past desires intersect with my own desires as a historian: to access the intimate past through the archives, to theorize and grasp for the meanings of “unnatural” sex under colonialism, and to write about (and thereby re-archive) the bodies of the past, exposing them to an audience and readership for whom they were never intended.

We must acknowledge, then, the corollary desires of today’s archivists and historians: to classify and commit certain acts to memory (or patrimony) and to “history.” Equally important, we must reckon with a corollary set of desires—both conscious and unconscious—of archivists and historians: to obfuscate and marginalize those pieces of the archive that do not fit the story they want to tell. To try our best to conceptualize desire (through longing, appetite, will, inclination, and pleasure) as early modern peoples may have is to embody, through writing and scholarship, a methodology that opens up rather than

forecloses the radical possibilities and potentialities of desire, and the ways it overlaps and deviates from our own. Early modern peoples understood desire in ways that are significantly different from (yet still intimately connected to) twenty-first-century observers, interpreters, and translators of the past. In grappling with colonial desires, we must search for proximity and points of connection but also acknowledge our distance from them.

Archival Encounters

The area known as New Spain embodies Mary Louise Pratt's concept of the "contact zone": a place "in which peoples geographically and historically separated come into contact with each other and establish ongoing relations, usually involving conditions of coercion, radical inequality, and intractable conflict."¹³ But there is a second contact zone in this study: the archive itself. Antoinette Burton considers the archive as a contact zone "between past and present as well as between researchers and structures of local, national, and global power."¹⁴ I want to push this analogy further, suggesting the archive as a space in which archived subjects, scribes, archivists, and historians are always constituted by, and in relation to, one another.

Present-day archivists and historians, when handling and analyzing archival documents, become inextricably wrapped up in all the acts of recording and archiving stretching back to the originating event. Thus, the archive should be seen as a contact zone between past and present but also between temporally diverse and interconnected processes of documenting (bodies) and consuming (information). The archive itself reflects how historical contact zones necessarily involve sex—a central component of the "ongoing relations" between the colonizer and the colonized, mediated by race, class, and gender.

The archival research presented in this study is unique in a number of ways, first and foremost in its focus on the archival encounters between the past and the present. Second, this corpus of documents has never before been assembled and studied together. My methodological approach of analyzing the initial acts of recording allows me to pay close attention to what María Elena Martínez has termed "the violent processes by which most cases of sodomy and other sexual practices became part of the historical record."¹⁵ Historians of sexuality, when reading and writing about the bodies and desires of historical others, are, as we will see, especially implicated in these processes.

Regarding the archival sources themselves, the corpus of documents I analyze is geographically diverse, comprising records from just over two dozen

historical archives in Mexico, Guatemala, Spain, and the United States. The archives most central to this project, in terms of case numbers, were Mexico's Archivo General de la Nación and Guatemala's Archivo General de Centro América. This book 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. Archives and special collections—including the Bancroft Library, the John Carter Brown Library, the Huntington Library, the Lilly Library, the Newberry Library, the Spanish Archives of New Mexico (microfilmed at the University of Texas at El Paso), and the Latin American Library at Tulane University—have also provided criminal and Inquisition cases, law codes, confessional manuals, religious literature, and images. Finally, the Archivo General de Indias in Seville, Spain, held colonial sodomy cases from the galleons sailing between Spain and port cities in the Gulf of Mexico and the Caribbean.

Many historians of sexuality in New Spain have relied primarily on national archives or on specific regional archives (in conjunction with national archives), and most have implicitly made male-female sexual relations the assumed category of analysis. Local archives remain largely underutilized by historians of sexuality in the colonial period, and the sins against nature remain understudied. This book, therefore, represents the first attempt to compile, analyze, and reproduce an unprecedented archival corpus of 327 documents, originating in both the criminal courts and the courts of the Inquisition, on the sins against nature in New Spain. The documents consist of complete Inquisition and criminal cases, fragments of cases, judicial summaries, denunciations and self-denunciations, correspondence between local magistrates and superior courts, appeals, private letters, royal decrees, edicts, and archival and indexical references (alongside glaring archival absences).

The word “corpus” itself purposefully connects the body—*cuero*—and the archive. “Corpus” comes from Latin and originally denoted a human or animal body. It only later came to signify a collection of written texts. The term, as used here, thus describes both a collection or body of texts as well as the archived human/animal/divine body as it is represented within the archival document, the archive's finding aids, and the historiographical literature. This association invites us to think through the complicated connections and relations between bodies and texts. As we will see throughout this book, bodies and archives overlap in multiple and unexpected ways, always mediated by the emotions and affective states of ensuing generations of archivists and histo-

rians. My time in the archives has prompted me to ponder, to imagine, and to articulate the interconnectedness of text and body, of archive and embodiment, in different ways.

Given that no one has written about the vast majority of cases analyzed here, it is my hope that *Sins against Nature* will be seen in and of itself as an act of archiving—a mere snapshot, but a valuable glimpse nonetheless, of colonial desires and archived bodies. Carla Freccero and Laurent Dubois, among others, have worked through the implications of “archives in the fiction.”¹⁶ Building on such formulations, I propose that we also locate *archives in the historiography*—that is, in assembling a corpus of cases, reproducing their archival classifications, and writing about them in historical scholarship, we create a historiographical archive that then becomes accessible to others in ways previously impossible. To this end, I have published a supplementary PDF file of all the archival documents employed in this study on the NYU Faculty Digital Archive (where it is supposed to last forever!), in hopes of assisting others in their research.¹⁷ Of the 327 documents, over 170 are from the eighteenth century, and nearly 80 cases come from the first two decades of the nineteenth century. By contrast, just over 50 cases hail from the seventeenth century, and a mere 13 are from the sixteenth.

The physical reality of the archival documents is just as revealing as their chronological distribution. Found in varied states of physical preservation, they range in length from one page to nearly 250 folios (a folio being an individual leaf of paper, written on both sides but numbered only on the recto, or front, side). Thus, the significantly deteriorated thirty-five-folio sodomy case of Pedro Bravo—riddled with insect holes and water damage—actually contains seventy pages of text, given that the verso, or back, of each folio is unnumbered (fig. Intro.1). This incomplete 1658 trial of Bravo—whose neighbors in Real de los Pozos accused him of being a certain don Lucas, a “*puto* and sodomite” who had been tried for sodomy in a nearby town some years earlier, and who fled to evade justice—reminds us just how fragile the colonial archive can be in terms of its materiality. No matter how careful I was in handling Bravo’s pages (with latex or cloth gloves), bits of “dust” from the slowly disintegrating document lingered on the table where I photographed the folios. Each trip to the archives thus reminds us how our own engagements with the past are mediated by the haptic and the sensory, and can quite literally contribute to the erasure of the past.

In moments like this I cannot help but wonder: Through whose hands has this document passed, and whose skin oils have marred its pages over the

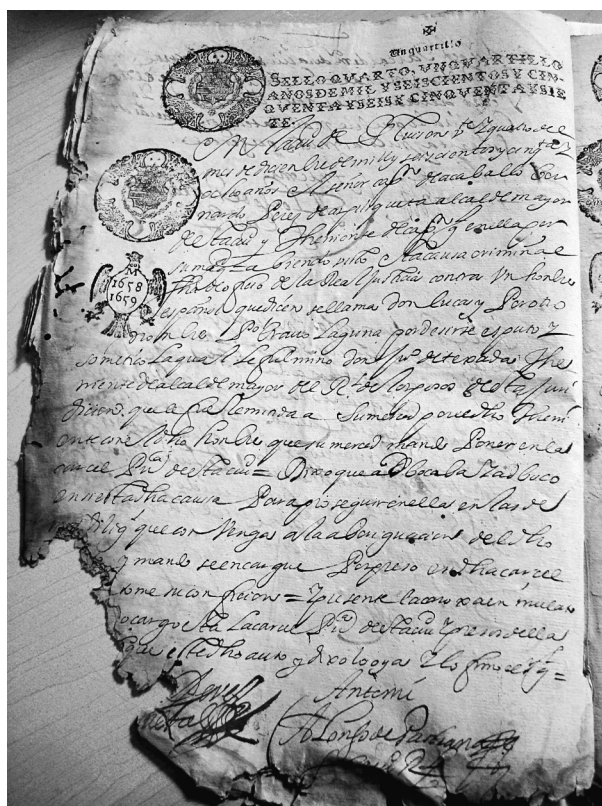


Fig Intro.1 A verso page of the partly deteriorated 1658 sodomy trial transcript of Pedro Bravo in San Luis Potosí. Courtesy of the Archivo Histórico del Estado de San Luis Potosí, San Luis Potosí, Mexico. AHESLP, 1658-3, “23 diciembre, contra Pedro Bravo por somético,” fol. 4v.

centuries? Whose handling of its pages has contributed to their own slow deterioration? This approach takes to heart a question proposed by Kathryn Burns: “After all, how else are we to go into archives if not through our senses?”¹⁸ I too emphasize the haptic and the sensory to illustrate larger points about how the past touches us, and how we, in the archive, literally touch the past *and* contribute to its deterioration. We, too, will see how the five senses—especially sight—figured centrally into these archival cases. Always worth keeping in the back of our minds is the tangible, physical artifact of the document and the ways in which it both *produces desire* (among its readers) and *is produced by desire* (through witnesses, notaries, and colonial officials). Desire itself is con-

stantly coming undone and being sutured to historical meaning, perhaps not unlike the dilapidated pages of colonial archival documents that are bound and rebound over time.

Archival Procedures

We know about people like Lorenzo Vidales from documents that were preserved in New Spain's secular or inquisitorial court records, hence my frequent mention of these archival stories as either a criminal case or an Inquisition case. In the secular system, on the one hand, the sins against nature are seen as *criminal*—worthy of punishment by New Spain's secular courts. Ecclesiastical records, such as those of the Holy Office of the Mexican Inquisition, provide a different understanding of the sins against nature; the Church investigated and prosecuted those thoughts and behaviors that it deemed *heretical*. The primary aim of the Holy Office of the Mexican Inquisition—established in 1569 by royal decree of Phillip II of Spain and founded in 1571—was to extirpate errant religious beliefs and police the boundaries of orthodoxy. The distinction between crime and heresy—and between criminal and inquisitorial jurisdictions—is crucial, though occasionally ambiguous, and plays itself out in the chapters that follow in terms of which acts came to be denounced to (and archived by) which courts. Technically, the sins against nature fell under the jurisdiction of the secular criminal courts in New Spain, and not under that of the ecclesiastical courts, though cases that broached heretical thoughts or acts—like a priest soliciting sex during confession or erotic religious visions—are significant exceptions.

The question of jurisdiction itself was a complicated one. In New Spain's government, the executive and judicial spheres—specifically, the office of the viceroy and the High Court of Mexico (Audiencia de México), which was New Spain's superior tribunal in charge of both criminal and civil matters—were not separated. There were no juries in criminal courts, and the threat of torture brooded over many proceedings. When reading the statements of the accused—even those in which they seem to voluntarily and sincerely confess their crimes—we should, therefore, always be aware of the trying conditions under which they were offered. Colonial authorities relied on a number of oft-conflicting codes of law, including the *Siete Partidas*—the Spanish legal code promulgated by Alfonso X between 1256 and 1265—as well as the sixteenth-century *Leyes de Toro*, and the *Recopilación de Leyes de las Indias* (compiled and codified in 1680 and reissued in 1756, 1774, and 1791).¹⁹ The implication of

this reliance is that there was a vast diversity of guidelines throughout New Spain for the very same crime. In addition, there were a number of laws emanating from colonial audiencias, viceroys, and cabildos (Spanish-style municipal councils), which could also influence the outcome of cases at the level of local courts.

The Sala del Crimen—the highest-ranking criminal institution in New Spain, established in 1568—held ultimate authority over secular crimes and judicial matters. In the chapters that follow, we will find several examples of court cases that were adjudicated at the local level—that of the town or village where the crime occurred—and then appealed by a suspect’s defense lawyer to the Sala del Crimen. This reflects the basic fact that most criminal cases were adjudicated locally, with the help of a local Spanish administrator (the *alcalde mayor* or *corregidor*) or, in the case of indigenous communities, by the indigenous cacique and the native officials of the cabildo. Making matters even more complicated, a separate legal body known as the Juzgado General de Indios (the General Indian Court) also held authority over native peoples, superseding that of local political leaders in indigenous communities. This convoluted complexity at the heart of the legal system plays itself out in many of the cases analyzed here.

There was also the rival system of ecclesiastical courts, many of which were set up under the Holy Office of the Mexican Inquisition, established in 1571, following a 1569 *cédula real* issued by King Phillip II, which ordered the establishment of two tribunals of the Holy Office—one in New Spain and another in Peru. In 1610 the Spanish crown established a third tribunal of the Inquisition in Cartagena. The primary goal of the Inquisition—in the Old World as in the New—was to combat heresy, though the meanings and boundaries of “heresy” shifted significantly over time. In Spain and Portugal, for instance, the Inquisition was typically concerned with witchcraft and with the religious beliefs and practices of Jews and Muslims who had converted to Catholicism. In the Americas, however, the various tribunals of the Inquisition were more concerned with punishing “superstitious” practices and bigamy—all too common among Spaniards who relocated to the Americas—and with regulating Catholic dogma that seemed to be straying too far from Rome, as well as with the content of prohibited books. The Church’s efforts to stamp out heresy across multiple continents operated largely on the basis of denunciations and self-denunciations. Thus, one central act of the Inquisition was the dissemination of Edicts of Faith—published annually during Lent and posted in

populous centers—the most common means of urging the masses to keep their consciences clean by denouncing their own sins and those of others. The edicts also informed the general population of which sins fell under the jurisdiction of the Inquisition and were therefore worthy of denunciation to priests and ecclesiastical courts.

In New Spain, as mentioned above, the Holy Office of the Inquisition by and large did *not* have jurisdiction over the sins against nature. This limited jurisdiction contrasts with much of the early modern Iberian world, including the Spanish cities and municipalities of Valencia, Barcelona, Zaragoza, and Palma de Mallorca, as well as Portugal and its overseas colonies of Brazil and Goa, where both sodomy and bestiality fell under the jurisdiction of the Inquisition. In Castile, Ferdinand the Catholic placed sodomy under the jurisdiction of the Inquisition in 1505, but he subsequently revoked that decree and in 1509 placed it under the purview of the secular authorities, which had important consequences for New Spain. Because the Indies was incorporated into the Crown of Castile in the sixteenth century, the Castilian legal system and its administrative and judicial bureaucracies were transposed to those territories. 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.

The result of these cumbersome layers of secular and ecclesiastical courts was a large element of uncertainty and caprice. The system of social control was set up to investigate, punish, document, and archive crimes of all kinds, and to fulfill overlapping projects: colonizing the vast territories of New Spain, converting indigenous populations to Christianity, and regulating the thoughts and actions of the populace. Spanish colonizers transplanted the terminology of “nature” to the New World, incorporating it into the colonial theological, archival, and legal lexicons of the colonial enterprise. An analysis of the formulation “against nature,” archived under its many guises, therefore enables us to critique the salient dichotomies—natural/unnatural, reproductive/sodomitical, and human/animal—underlying the reproductive ideology behind colonialism. Sex in New Spain, in its many manifestations and conflicted meanings, serves as a (murky, occluded) window to observe the interplay and tension between gender, desire, and colonialism—as well as the ensuing tension between archival iterations of repression and toleration that persist to the present. Here, we will see how the contradictions, complexities, and ambiguities of

colonial culture and everyday life are negotiated, first through the body and then through the archive.

Because we are dealing largely with the records of criminal trials, it is helpful to review the procedural norms in a typical criminal investigation of sodomy in New Spain. The first phase was known as the *sumaria*, a fact-gathering stage in which the court sought to determine the particulars of the case. The facts, here, were elicited from witnesses (and, if the sex wasn't consensual, from the victim), who gave testimony in response to questions posed by judicial officers. After the presentation of facts, the judge or inquisitor would next request an *auto de confesión*—an act of confession. This was the suspect's opportunity to profess what he or she had done; the suspect more often than not, however, maintained his innocence and offered his version. Transcription, all the while, was done by the escribano, the notary whose job it was to faithfully document testimonies and confessions. During this phase of the criminal proceedings, interrogation could also be accompanied by force. Judicial torture, while used relatively sparingly in New Spain, was sanctioned throughout the colonial period and was consistently used as a threat by prosecutors.

During the second phase of the criminal investigation, the *juicio plenario*, both the prosecution and the defense produced additional witnesses in order to prove their respective positions. Witnesses were occasionally cross-examined in an accepted courtroom procedure known as the *careo*, during which the accuser and the accused were both present in the courtroom to give their respective version of events. Here the court would appoint a *defensor*, or defense attorney, to give the defendant legal counsel. During the *sentencia*, the final stage of criminal proceedings, the judge, basing his decisions on the trial proceedings and expert opinion, either absolved the defendant of the charges or pronounced the defendant guilty and sentenced him or her for the crimes committed. The punishment, as we will see in the chapters that follow, could include imprisonment, public shaming, corporeal punishment, some kind of fine or seizure of personal goods, an auto-da-fé, and even death.

The actual unfolding of the investigation and trial was, just as today, often quite different from this ideal. This development becomes even more difficult to trace with the passage of time, as inconsistencies abound and procedural steps are difficult to reconstruct.²⁰ The issue at hand is not only whether the proper procedural steps occurred but, in addition, whether we can use the archival record to figure out if and how these steps were (or were not) followed. Using criminal and Inquisition cases alongside other published and

unpublished sources enables us to juxtapose popular and official narratives while, at the same time, acknowledging the multilayered testimonies and constructed nature of archival sources. Statements by defense lawyers, testimonies by witnesses, confessions by suspects, and rulings by judges are central to this book; but we can never assume that these sources express themselves in some “authentic” way, nor should we forget that the recorded testimonies were filtered by colonial authorities and scribes, as well as by subsequent generations of archivists. For, as Kathryn Burns tells us, “notaries produced a shaped, collaborative truth—one that might shave, bevel, and polish witnesses’ words a bit here, a bit there, as they were ‘translated’ into writing.”²¹ The same can be said for historians. As the following pages demonstrate, archival documents themselves are the collaborative products of entangled narratives of body, sex, and desire.

Archival Flickers

Carnal acts, colonial control, and court procedures all stem from some manifestation of desire: the desire for sex, for control, for retribution. Yet archived desire, in particular, is inherently unstable. Desire, as represented in colonial archives, provides us with a prime example of what one scholar has recently termed “archival aporia”—that is, a site of internal, and irresolvable, archival contradictions. These overlapping desires force us to reckon with representation and its limits, in both spoken words (denunciation, testimony, confession) and written texts (transcriptions, documents, finding aids, archive catalogs).²² What, then, is at stake in archiving desire through the prism of the unnatural? The further I delved into the archives of New Spain, and the more I worked through the stakes of this project, the more I ran up against queerness. “Queerness,” as a term, makes its way into the pages of *Sins against Nature* only minimally. However, in its methodology and theory, this is a queer project at heart.

Can scholars queer the colonial archive through the unnatural? Within the history of sexuality, “queer” is a decidedly contentious term. As a category of identitarian politics (akin to, some might argue, or against the more familiar categories of identity: lesbian, gay, bisexual, or transgender), the term “queer,” I argue, has minimal relevance to colonial Latin America. However, as an anti-identitarian concept, and as a methodology, “queer” has a particular relevance to this history, which seeks to deprivilege heteronormative (and homonormative)

ways of researching, writing, and archiving desire. It might be easy to assume that this book is queer because it focuses on desires that are deemed to be “against nature.” That, however, would be too simple.

This book is queer because of its sustained effort to stage archival encounters across several centuries. It follows Arlette Farge’s insight that “archives bring forward details that disabuse, derail, and straightforwardly break any hope of linearity or positivism,” pointing to what Carolyn Dinshaw calls the “temporal multiplicities”—or queer temporality—of books, texts, and archival documents.²³ Queer conceptualizations of time oscillate between past and present (and the lure of the future), with our own desires and emotions guiding, to some extent, how we engage with the archive and why we tell the archival stories we do, in *our* present. Using a queer studies methodological approach, in mainstream historical archives, to traverse the temporal *through* the visceral—*queer archivalism*, in the words of Elizabeth Freeman—allows us to explore the fraught (and anachronistic) relations between past and present, archive and document, historian and witness, writer and written of, consumer and consumed.²⁴

My project, admittedly, did not begin with such insights; I was initially interested in writing a temporally bounded social history of sodomy, “homosexuality,” and “same-sex desire” in colonial Mexico. The true starting point for this book—once I realized that I needed to look beyond same-sex desire—was to complicate my own understanding of desire in the colonial past (in relation to the present). This project thus came into being only when I myself moved away from thinking about desire as teleological or as progressing toward some imagined endpoint, be that marriage, reproduction, or even the consummation of a discrete, bounded sexual act such as penetration, orgasm, or ejaculation—phenomena that in the Iberian Atlantic world came to determine which acts counted as sodomy and which did not.

This book builds on other queer archival projects in which activists, archivists, and scholars have sought to expand the very notion of “the archive,” in part through feminist and postcolonial critiques of colonial and bureaucratic consolidations of power. If we recast the archives of colonial Latin America queerly, we do so by applying pressure to our own preconceptions about sex in the past, and about the archival forms through which we inherit our understandings of this past. Simply focusing on the varied sex acts that did not result in procreation does not make a project queer in any meaningful way, and it certainly does not embody a queer archival methodology. Instead, what makes this project queer, at its core, is its focus on that which is “strange, odd,

funny, not quite right, improper” about how bodies and desires come to be archived in the first place (and, subsequently, how these indexes are granted, and denied, archival status in catalogs and finding aids).²⁵ Furthermore, my own conflicted engagement with the material I encountered in the archives—and perhaps even those of the readers of this book—also makes this project queer.

Sins against Nature ultimately grapples with the queer instability of desire, as it comes to be textually recorded and archived. In an essay on Jacques Derrida and the archive, Verne Harris questions the supposed static nature of any particular moment in time: “No trace in memory, not even the image transposed onto film by a camera lens, is a simple reflection of event. In the moment of its recording, the event—in its completeness, its uniqueness—is lost.”²⁶ The same, of course, is true for desire: as it is being recorded, archived, and documented, it is paradoxically (in the process of) being lost forever. We are left with an imperfect trace of what was once a unique, ephemeral instantiation of desire. Yet textual and affective traces remain; a queer methodology invites us to theorize our own ephemeral encounters with these archival flickers of desire.

As *Sins against Nature* demonstrates, archival representations of desire are muddled and deteriorating (both physically and discursively): they flicker and flutter—not unlike shadows and silhouettes of objects illuminated by candlelight—and slowly disintegrate, along with the always-aging papers on which they are inscribed. Many of the archives in Mexico, as elsewhere, are now being digitized, giving us the illusion of permanence. Yet the flicker persists: microfilmed, photographed, and scanned documents will always be mere (imperfect) copies of an ever-changing, slowly disintegrating archival document (which may be a copy of another document in and of itself).

If, as Carla Freccero posits, “queer can thus be thought of as the trace in the field of sexuality,” and, as José Muñoz tells us, “the key to queering evidence . . . is by suturing it to the concept of ephemera,” then the queer here is an archival copy of a copy (of a copy) of an archival flicker of an original desire—a desire whose origins are difficult, and perhaps impossible, to determine.²⁷ Queering the colonial archive then is not about reading particular acts, desires, and subjectivities in the past as “queer” but rather about using the archive itself to elucidate the contours of ephemeral desires, ritualistic record-keeping practices, and the illusory nature of colonial hegemony as enacted on desiring bodies. Colonial archives exude these expressions of desire; they literally pour through archival inventories, card catalogs, and the very pages of archival documents. Like the inkblots that bleed through the recto side of an early modern

Iberian handwritten manuscript, becoming a shadow on its verso counterpart, desire seeps from the archive, often in unsuspecting ways.

If we return to the criminal case of Lorenzo Vidales, we see how the archive interpellates truth and fiction—original light and archival flicker. Vidales did indeed penetrate a goat, and he was indeed punished; but this brief flicker of desire in the past is completely wrapped up with (and transmitted through) the notary's written words and the archive itself, both as a system of representation and as a physical place where documents are preserved. The desires that the archival document points to were, to some degree, actually felt and acted on by Vidales, yet this does not make the representation and conveyance of those desires (into the archive) any less problematic, or any more "authentic." The archived desires of Vidales are mundane yet ritualistic (in terms of how they were initially recorded), illusory (in terms of how they allow us to construct Vidales as a historical subject), and ephemeral (in terms of the impermanence of desire and of the pages on which it is inscribed). In the case of Vidales, as in all the cases that follow, the desires of the imperial state ran up against the desires of the perpetrator, of the witnesses, and of spectators who witnessed his public punishment. Archival desires flicker; lived desires come through the document through the distortions and misinscriptions of those who created the document, and of everyone who has handled it since.

Sins against Nature ultimately explores how bodies and their desires are textually recorded and archived (through the collaboration of witnesses, confessants, scribes, colonial bureaucrats, and archivists), and thus survive into our own day. In the archive, we find not desire itself but rather the contours of desire, which we can merely begin to trace, only to be left partly frustrated (and perhaps even challenged and inspired) by the amorphous and malleable nature of desire itself. Desire as it is recorded in the archive becomes, in some ways, a mere fantastical projection of itself. Not unlike Spanish and mestizo priests who, in New Spain, penned bilingual confessional manuals—discursively creating, narrating, enumerating the sins of lust—those who participated in the many stages of secular and inquisitorial court proceedings actively sought out, constructed, and narrated those desires they deemed "against nature." In doing so, they also inevitably projected their own fantasies and desires on the bodies of others (as I, and perhaps you, do too).

As Carolyn Steedman notes, "Nothing starts in the Archive, nothing, ever at all, though things certainly end up there. You find nothing in the Archive but stories caught half way through: the middle of things; discontinuities."²⁸ The colonial archive exposes these discontinuous, interconnected desires. It