Kinship and Incestuous Crime in Colonial Guatemala

Kinship and Incestuous Crime in Colonial Guatemala examines social relations in colonial Guatemala through the lens of incest. Using a combination of qualitative and quantitative analyses of incest trials from the Spanish secular courts, this study shows that incest codes were not homogenous nor were its various forms equally condemned. Further, incest codes and the criminal process impacted the articulation of kinship and contributed to the racialization of kin behavior. Colonial actors of all sorts were proficient at using these types of distinctions as they negotiated various crises in their lives. The models of relatedness created within incestuous crime ultimately foreshadowed changes in marriage proscriptions and continued racial polarization following independence from Spain. Overall, this study demonstrates how the lens of incest can add further nuance to our understanding of social relations in a given area. Incest codes force latent divisions between kin to the surface and can provide individuals with multiple avenues to creatively manage interpersonal relationships. They also afford a fruitful arena in which to explore social inequalities in society and mechanisms of culture change. This book will appeal to anyone interested in Latin America or engaged in the fields of kinship, gender, or sexuality studies.

Sarah N. Saffa is currently a Visiting Scholar at Johns Hopkins University.

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Kinship and Incestuous Crime in Colonial Guatemala

Sarah N. Saffa

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*For Zach
and
all of my
stepfamily-in-law*

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1 Introduction

“I Am Not Your Father”

Introduction

In 1810, José Rumualdo Fuentes denounced his father Vicente to colonial authorities for the rape of his wife—Vicente’s daughter-in-law—on two separate occasions.¹ José claimed that Vicente annulled both of their marriages through his actions and requested his exile. In legal jargon, Vicente had committed incest in the first degree. The victim in this case, María Rosalía Surqueah,² tried to interrupt the sexual violence, evidently referring to Vicente as her “father” in the process. However, Vicente had retorted that he was not her father, and her efforts to impede his attacks were ultimately unsuccessful. Rosalía believed she was pregnant from their union, though this turned out to not be the case. Vicente initially denied the accusation, suggesting that Rosalía was using him to cover up a sexual relationship with another man. However, he eventually admitted to the crime. Like many victims of sexual assault, Rosalía was equally on trial, and debate ensued as to whether or not she consented to the incest. Both Rosalía and Vicente were Indians, and defense counsel on either side drew from colonial constructions of Indianness in their attempts to exculpate their clients. Still, in the end, Vicente was sentenced to four years of imprisonment and twenty-five lashes, and Rosalía to two months of interior service in the Beaterio de Indias (house of pious Indian laywomen) and spiritual exercises. There was also a mandate for the “habilitation” of their marriages, an ecclesiastical process that allowed spouses to resume married life with one another. As it turns out, the story of this Poqomam Maya family resonated with those of many other families in colonial Guatemala. And, taken together, episodes such as these shed light on the lived experience of kinship and its intersections with a colonial regime.

Westerners³ today often associate incest with sexual intercourse between close blood relatives, but incest taboos are not uniform across time and space. For Spain and its American colonies, the legal definition of *incesto* (“incest”) included sexual relations between various types of individuals. Among them were consanguineous, affinal, and “spiritual” kin—the latter of which were created through the Catholic

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rites of baptism and confirmation—in addition to members of religious orders and non-Christians. Yet, analysis of incest trials from the Spanish secular courts shows that the definition of incest in colonial Guatemala was not always shared, nor were its various forms equally condemned. Further, incest codes and the criminal process impacted the articulation of kinship, with colonial actors often using the norms and nuances related to incest to their own or another's advantage. These variables also contributed to the racialization of kinship models, as individuals drew from assumptions about a relationship between Indianness and incest, even in the face of evidence to contrary. Overall, incestuous acts and the legal proceedings surrounding them reflected and constituted various aspects of social relations in colonial Guatemala and prefigured elements of social life following independence from Spain.

Theory, Method, and Context

Colonial Guatemala was a region within the viceroyalty of New Spain, which included territories within the southern United States, Mexico, Central America, and the Caribbean and Philippine seas. The Kingdom of Guatemala included the area between modern-day Chiapas and the Costa Rica-Panama border. Territories within today's nations of Guatemala, El Salvador, and Belize roughly formed the province of Guatemala within the larger Kingdom of Guatemala during the seventeenth century. Following the establishment of the intendency system in the late eighteenth century, El Salvador became its own intendency, and the province of Guatemala was reduced to areas within present-day Guatemala and Belize. All of the cases analyzed in this study took place within this province and span the years 1682–1821, the year in which independence from Spain was declared.

Colonial Guatemala was largely made up of indigenous Maya, but Spaniards (born in Spain and the Americas), Africans, and individuals of mixed descent also formed a part of the fabric of colonial society.⁴ There were large discrepancies in levels of education such that many individuals were illiterate, while others held professional degrees. Religious indoctrination and scrutiny by Spanish colonial authorities was uneven at best, allowing indigenous and rural areas greater liberty from the enforcement of civil and canon norms. While incest in colonial (and post-independence) New Spain has received some scholarly attention, the colonial Guatemalan region has eluded much analysis.⁵ Thus, this study works to fill this gap, providing not only a general framework of incest in the area for the purpose of contextualization and regional comparison but also intimate glimpses into the lives of gendered and racialized kinspersons in colonial Guatemala.

Incest has long been intriguing to anthropologists because such taboos are evidently common to all human societies. Incest is typically understood as a proscription on sexual relations between individuals considered to be too closely related, which will vary depending on cultural and historical context. However, the term used to designate such proscriptions can also be extended to include certain non-kin, as was the case in Spanish law. Explanations for the incest taboo have varied. Some consider biological influences, such as the importance of genetic variation (via outbreeding) to the survival and adaptation of the species (see Fox 1980, 10–1). Others focus on sociocultural factors in which incest taboos serve to reduce the potential for intra-group conflict and promote inter-group alliance.⁶ More recently, Françoise Héritier (2002) proposed that the incest taboo derives from a universal human proclivity to categorize things as the same or different, with contact between identical bodily fluids (however defined) being the ultimate criterion for incest. Regardless of the exact mechanisms behind incest taboos, their codification is uniquely human, and they have clearly impacted social experience.

Incest naturally intersects with the concept of kinship or relatedness,⁷ a signature subject of the anthropological discipline because of its apparent role in human social organization. For much of anthropology's existence, kinship was conceived of as the sociocultural means of organizing the biological "facts" of procreation. In other words, kinship was ultimately rooted in sexual reproduction. Pushes towards reflexivity within the broader postmodern movement led to criticism that kinship was an ethnocentric construct reflecting a Western worldview. Thus, it was argued that kinship should not be considered to have some pre-social, universal existence.⁸ Because of such debate, kinship is now viewed in more optative and fluid terms and as not necessarily tied to so-called blood relations.⁹ Generally speaking, there has been a shift to thinking of kinship as a process as opposed to a state of being (see Parkin and Stone 2004; Bamford and Leach 2009). At the same time, biology has reentered the equation with the understanding that human culture is not wholly removed from human evolution. However, biology in this case is seen as one potential factor underlying kinship construction and behavior—not as a universal feature of it (see Stone 2004).

While concepts of relatedness in colonial Guatemalan incest trials in many ways centered on the idea of inalienable blood ties, they were also characterized by a degree of malleability and sensitivity to context. As a result, these cases provide a ripe arena in which to view the coexistence of, and tensions between, these different forms of relating. They necessitate thinking in terms of a kinship calculus in which variables like sexual relations or criminal procedure shape the expression of relatedness in culturally predicated—though not always identical—ways. Indeed,

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there were times when individuals came to different conclusions about the nature of a relationship.

Analysis of incestuous crime in colonial Guatemala demands a feminist perspective. Feminist anthropologists have often highlighted the role of social processes (e.g. kinship) in the production of gender asymmetries and heteronormativity.¹⁰ In colonial Guatemala, incestuous violence was gendered—victims were always women and girls, whereas perpetrators were exclusively men. Further, incestuous violence was typically enacted by father-types—fathers, stepfathers, and fathers-in-law. Both patterns are consistent with the patriarchal ideals that infused much of colonial Latin America (cf. Herman 2000). The criminal category of incest also reinforced a heteronormative environment. Following various legal codes and the cases of incest that were brought to trial in the Guatemalan secular courts, “incest” only referred to sexual relations between male and female kin.

This topic of investigation also requires an intersectional approach. The experience of Indians in the criminal process was particularly marked. The ways in which Spanish legal authorities and defense counsel regularly portrayed Indians in incest trials linked this sector of the population to this particular crime. Indian actors, for their part, both contradicted and reinforced such representations, which were largely intended to lessen culpability. Indeed, Indians were well aware of the stereotypes Spaniards held about them, and they were able to “appropriate the language of the dominant” (Kulick 1996) for their own ends when on trial. Such generalizations had polarizing effects, which not only legitimated the marginalization of Indians in the minds of Spaniards, but also worked against those who denounced Indian offenders before the Spanish courts. Indian women and girls would have been at a particular disadvantage, considering the gendered nature of incestuous violence in colonial Guatemala.

Obviously, power imbalances will characterize any courtroom situation, and these discrepancies can have impacts outside of it. Following Sally Engle Merry (1991), the processing of cases in courts is one way in which the culture of a dominant group is introduced to a subordinate one. She described such instances as “cultural performances” that create change in sociocultural practices and consciousness (Merry 1991, 892; see also Merry 1994). This is not to say that such introductions lead to a one-to-one cultural transfer in favor of the dominant group. In Susan Kellogg’s terms (1995, xxii), law is “an arena of cultural conflict and accommodation” and “a catalyst of cultural change and adaptation.” The criminal process in colonial Guatemala would have clarified to incestuous offenders who acted in good faith that their sexual activity was inappropriate from the court’s perspective, shaping perceptions of incest and relatedness in the process. It would have shown those who knowingly committed incest the potential legal consequences of such

actions, perhaps mounting pressure for future compliance. Some individuals no doubt obliged warnings by magistrates to separate from their sexual partners, but others were tried more than once (Case 17). And, since word of incest trials could spread and punishments could be public, enforcement of incest law (or lack thereof) would have made an impression on other community members as well. To be sure, incest trials triggered conversation and debate about the nature of kinship and incest, which could serve to either reinforce incest law or pave the way for new possibilities.

Use of colonial criminal records for historical reconstruction has both its limitations and its benefits. Factors like power disparities between authorities and witnesses, imperfect translations of non-Spanish-speaking individuals, and the handwritten method of recording and typical third-person rendering of oral testimony have all had the potential to impact what was said during a trial and included in the final written product.¹¹ At the same time, these documents offer information on individuals who would otherwise be lost to history, sometimes even providing the reader with direct quotes from witnesses or personal letters of accused persons.

Also, though it might be tempting to classify criminals as social outliers, scholars have cautioned against this. For example, Steve J. Stern (1995, 52) found that in colonial Mexico, “episodes of criminal violence represented not so much a rupture that stood apart from normal social dynamics but an excess committed within a recognizable logic of behavior.” Richard Boyer (1989) also spoke in terms of “excess,” noting how married individuals (particularly women) might be forced to act once marital ideals of reciprocity became too overshadowed by a spouse’s mistreatment, whether it came in the form of physical violence, neglect, or otherwise. Guatemalan incest cases likewise reveal behavior that crossed into the realm of the excessive, especially in the figure of the father-offender. In essence, deviant behavior can provide insight into cultural norms despite breaching their limits.

Needless to say, participants in incest trials often contradicted one another. While it remains impossible to fully comprehend what transpired between them—if anything—the arguments they made are still informative. To summarize Marilyn Strathern (2005, 50–1), the cultural resources individuals use in support of a persuasive point must communicate something that is possible, and possible worlds inform actions in the present one. Thus, regardless of whether the statements made in incest trials were accurate, exaggerated, or outright false, they were not completely divorced from the realm of cultural possibility that seeped into the lives of colonial actors.

The criminal records analyzed here are housed at the Archivo General de Centro América (AGCA) in Guatemala City, which I visited during the summers of 2012, 2014, and 2015. Using the archive’s *fichero*

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(card catalog) as a guide, I was able to locate, and then photograph, the documents for this study. During my time at the archive, I consulted drawers 1–2 through 1–23, 1–25, 1–28, and 1–29 in the section of the *fichero* dedicated to civil and criminal records, which is organized chronologically. I later analyzed the digital versions of the documents using a combination of qualitative and quantitative analyses.

Seventy-three of the cases found addressed incest—or what would theoretically constitute incest—as the sole crime or as one of multiple crimes. These cases make up the Incest Case Log located in the Appendix and are cited as Cases 1 through 73 in the main text. Other court records that contained information pertinent to this analysis also appear in the text and are cited accordingly. All of these records stemmed from the Spanish secular courts, and the majority of incest cases were explicitly identified as criminal cases. Criminal proceedings—in contrast to civil proceedings—dealt with offenses that entered the public sphere and had a perceived negative effect on the community (Cutter 1995, 111–3).

Over half of the incest cases were tried in the jurisdictional area of Sacatepéquez, which contained the capitals of Antigua Guatemala (or Santiago de Guatemala) and Nueva Guatemala (modern-day Guatemala City).¹² Incest trials typically involved (illiterate) non-elites, making them especially valuable for the study of subaltern lives. Only 11 out of 164 individuals carried the honorific title of *don* or *doña*.¹³ One Indian man was listed as a *principal*, an esteemed status in indigenous communities (Case 21). Indians accounted for forty-six of the actors in incest trials, individuals of mixed descent for thirty-two, and Spaniards for eight.¹⁴ Seventy-eight individuals did not have their race recorded in line with Christopher Lutz's (1994, 103) observation of a growing tendency for race to go unrecorded in notarial records from the late colonial period. Significantly, in contrast to their relatively small representation among defendants in incest trials, ethnic Spanish men dominated positions of power in the Spanish secular courts in Guatemala and throughout the Americas. This was also true of the clergy, members of which regularly featured in incest cases in one way or another.

In colonial Guatemalan incest trials, the words *amancebamiento* (“concubinage”), *concubinato* (“concubinage”), and *ilícita amistad* (“illicit friendship”) were frequently used interchangeably.¹⁵ Their main significance here is that they connoted nonmarital (sexual) unions between men and women. As noted above, such unions could take the form of sexual violence. Though modern notions of rape as sexual intercourse with a person without their consent or against their will were relatively absent from colonial jurisprudence (see Komisaruk 2008, 373), the issues of force and consent did arise in some incest trials. This study considered sexual unions to be incestuous rape when there was a clear articulation at some point during the proceedings that a woman or girl

was either physically assaulted or otherwise compelled to succumb to a male perpetrator. Though verbs like *estuprar* (“to deflower”) and *violar* (“to rape”) theoretically connoted forcible sexual relations, in Guatemalan incest cases these verbs (and their linguistic variants) were most consistently used in reference to a loss of virginity and were not a reliable indicator of coercive sexual relations. Verbs like *forzar* (“to force” or “to rape”) and *violentar* (“to force”), on the other hand, were explicitly juxtaposed to consensual sexual relations (e.g. Case 65).¹⁶

Overall, incestuous crime was associated with force or intimidation approximately 27 percent of the time, though this is surely an underrepresentation of the reality of sexual coercion within incestuous relations. Surviving court records are often incomplete, sometimes providing little more than a name of an individual and the crime of which they were accused. Further, the question of consent is rarely simple, and power asymmetries based on factors like gender and generation could have in fact contributed to sexual coercion even when violence or fear was not expressly articulated. The approximate ages of participants in incestuous crime are included in the Incest Case Log, provided that they were available. However, it should be noted that children in colonial Latin America could be attributed sexual agency at a very young age by modern standards. Bianca Premo (2005, 120), for instance, found that girls in colonial Lima were generally considered sexual innocents when they were around eight years of age or younger. As they grew older, the state of their sexual honor became more suspect.

Certain stylistic choices have been made for the sake of consistency and readability. Spanish names and terms appear in their modernized forms in the main text. Indigenous surnames, on the other hand, reflect their colonial spellings because they have largely been preserved out of concern over the legal consequences, particularly with respect to land titles. Also, notaries rarely spelled them consistently, and alternative spellings are included in the endnotes when appropriate. Translated passages follow modern conventions for punctuation and the capitalization of words. I have omitted some words and phrases from translations because they are burdensome to the reader. For example, criminal records are full of qualifiers like “aforementioned” and “said” (e.g. “the aforementioned María”). In translations, this phrase would be simplified to “María.” I have also replaced identifiers like “the declarant” or “she who states” with pronouns or a referent’s name for the same purpose. On occasion, a referent’s name has been inserted into a quoted passage for the sake of clarity. Brackets designate these types of modifications. The original Spanish of translated passages can be found in the endnotes with any available folio numbers and more specific document identification when necessary (some cases in the Incest Case Log spanned multiple documents).

It should also be mentioned that once an actor from a criminal case has been identified by their full name in the main text, they are thenceforward referred to by their first (and/or middle) name only. First names communicate gender identity, a helpful reference point in cases that center around interactions between men and women. Further, being that incest cases dealt with families, various actors could share a surname, making first names more useful for conveying individual identities. Defense counsel are referred to by their surnames once introduced because they were always male and fell outside the principal narrative of the case.

Overview of Chapters

Chapters 2 and 3 set the stage for understanding social relations and incestuous crime in colonial Guatemala. Chapter 2 examines the intersection of incest with two major elements influencing social relations in Spanish America—the system of socioracial categorization and the culture of honor (status or virtue). Chapter 3 further contextualizes incestuous crime through exploration of legal and cultural precedents, jurisdictional issues, and the criminal process, including the special treatment afforded Indian actors in the legal realm. It ends with a discussion of the typical penalties for incestuous crime in colonial Guatemala and their correlations with race, gender, and marital status.

Chapters 4 and 5 discuss broad patterns within incestuous crime and relatedness in colonial Guatemala. Chapter 4 first considers debate among legal professionals regarding whether certain forms of incest were more criminal than others and the types of incest that were typically brought to formal trial. It then examines the ways in which the nature of kin ties could contribute to incestuous crime and factor into various aspects of the criminal process. Chapter 5 illustrates how incest codes came into conflict with the malleable nature of kinship practice in colonial Guatemala. It also demonstrates the ways colonial actors of diverse backgrounds were able to take advantage of kinship and incest as they dealt with (forced) sexual relations, marriage, and conflicts with authority figures.

Chapter 6 focuses on a particular segment of colonial society—the Guatemalan indigenous population. It discusses the intersection of colonial constructions of Indianness, particularly its ignorance aspect, with incestuous crime. It examines strategic usage of the ignorance defense in incest trials and its potential implications. It also demonstrates the ways in which challenges to Indianness were ignored, leaving little room for counternarratives. Chapter 7 summarizes the findings of this study and proposes possible avenues for future research.

Figure 1.1 Modern Guatemala overlain with late colonial jurisdictional divisions (1785–1821). Jurisdictional information adapted from Komisaruk (2013, xv). Map by Zachary S. Klukkert.

Notes

- 1 Case 61.
- 2 Rosalía's surname was also written as Surquiah, Surcheah, Surchiah, Surquial, Zurquig, Surchah, Suchiah, Suaquial, and Sequeh.
- 3 Carsten (2001, 50) cautioned against drawing stark lines of contrast between Western and non-Western categories. Thus, "Western" is used here as a way to highlight that not all worldviews are influenced by Judeo-Christian values and/or emphasis on the modern scientific method rather than as a way to distinguish between homogenous Western and homogenous non-Western conceptual frameworks.
- 4 Descendants of indigenous Central Mexican populations also resided in Guatemala. For example, Ciudad Vieja was a community of largely Tlaxcalan ancestry (Komisaruk 2013, 62).
- 5 For example, Margadant (2001), Rodríguez-Sáenz (2005), Jaffary (2007), and Penyak (2016). Incest cases also surfaced in Castañeda's (1989) treatment of sexual violence and *estupro* (loss of virginity) in Nueva Galicia. The corpus of colonial Guatemalan rape records analyzed by Komisaruk (2008)

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also apparently included some incest trials. Guatemalan incest trials are also treated in Saffa (2019).

- 6 See, for example, Lévi-Strauss (1969) and Goody (1956).
- 7 In the contributions to Carsten (2000b), the term “relatedness” was adopted and used alongside, or in opposition to, “kinship” to indicate a willingness to embrace indigenous idioms of being related (Carsten 2000a, 4). Here, the term is used interchangeably with “kinship” as a reflection of changes in kinship theory following postmodern critiques.
- 8 See, especially, Schneider (1984). See also Collier and Yanagisako (1987).
- 9 See, for example, Weston (1991, 1995), Carsten (2004), and the contributions to Franklin and McKinnon (2001), including Weston (2001), Howell (2001), and Yan (2001). Franklin (2013) showed how biology itself is relativized in the context of in vitro fertilization (IVF).
- 10 See Ortner (1972), Rosaldo (1974), and Rubin (1975) for early discussion of this topic.
- 11 For extended discussion of issues related to text production and archives, see, for example, Burns (2010) and Tortorici (2018).
- 12 The capital moved to Nueva Guatemala following extensive damage to Antigua Guatemala caused by an earthquake in 1773.
- 13 This title theoretically originated in legitimate descent from high-status parents (Twinam 1999, 4).
- 14 Domingo Mariano Mejía (Case 46) was identified as both Indian and *mestizo* (of Spanish and Indian descent), but because the Indian identification surfaced more emphatically in the case, it was favored here. Also, doña Teodora Bocanegra (Case 45) was considered Spanish in this study since her title and the identification of her sister as Spanish would have surely resulted in her treatment as such. All information related to racial identification can be found in the Appendix.
- 15 See Komisaruk (2013, 207) for further discussion of such terms in late colonial Guatemala.
- 16 For further discussion of rape, deflowerment, and associated terminology, see, for example, Castañeda (1989), Lipsett-Rivera (1997), Komisaruk (2008), and Tortorici (2015).
- 1 See van Deusen (2015) for a discussion of the breadth of people to whom the term *indio* could refer.
- 2 Though use of the terms *casta* and *calidad* to refer to this system has been found anachronistic or inappropriate for early Spanish America, they are relevant for the seventeenth and eighteenth centuries (see Schwaller 2016). In late colonial Guatemalan criminal records, when individuals were asked to provide their *calidad*, they responded with a socioracial term, making *calidad* the most appropriate terminology for the study at hand.
- 3 Information regarding the system of two-republics can be found in Borah (1983), Lutz (1994), and Schwaller (2016). See Hill, II (2002, 124–7) for a discussion of the Indian *cabildo* as a barrier/broker institution and Hill, II (2012) for an analysis of how Indian aristocrats utilized the introduced *cabildo* to maintain their status.
- 4 The enslavement of women and children under the age of fourteen was outlawed in 1534 (van Deusen 2015, 8), and women were declared exempt from tribute payments in 1756 (Hill, II and Monaghan 1987, 57). For a history of religious colonialism in Guatemala, see van Oss (1986). Sherman (1979) provides a comprehensive treatment of forced native labor in Central America. Information on the *laborío* and non-Indian tribute can be found in Lokken (2001) and Milton and Vinson, III (2002).

- 5 It was not until after Independence that Guatemala became conceptually divided between *ladinos* and *indios*, the former being associated with Western values and some degree of Spanish heritage, while the latter was viewed as racially and culturally distinctive (Taracena Arriola 1982, 99–100). This division was characterized by prejudicial notions of Indian inferiority, which has continued to have an impact on race relations in Guatemala to this day (see, for example, Hale 2006).
- 6 *...la poca union que guardan entre si Yndios, y Ladinos...* AGCA A1.15 Leg. 5426 Exp. 46305.
- 7 Bernardo's surname was also spelled Cuachita, Quachito, and Cuachito.
- 8 *...la muger q.e se mescla con otro q.e no sea de los de su casta p.r la mas perdida, y despreciable...f. 14.*
- 9 Notably, in 1803 royal officials determined that subsequent marriage between relatives who had produced incestuous offspring was sufficient to legitimize them (Gacto Fernández 1969, 104 in Twinam 1999, 130).
- 10 Works that discuss the culture of honor include Socolow (1980), Stern (1995), and the various contributions to Johnson and Lipsett-Rivera (1998b).
- 11 For discussion of the impact of colonialism on indigenous women's status, see Clendinnen (1982), Kellogg (1995), Restall (1997), and the various contributions to Schroeder et al. (1997). Works that consider social organization and descent reckoning include McCaa (2003) for the Nahua, Restall (1997) for the Yucatec Maya, and Sanchiz Ochoa (1980), Luján Muñoz (1983), and Hill, II (2002, 2012) for the Guatemalan region. Comments on adultery include Sanchiz Ochoa (1980, 190) and Terraciano (1998, 724, 729–30). Burkhart (2001, 92) mentioned that stoning, which many sources claim was the pre-Hispanic punishment for adultery, is found in the Bible as well. She also provided general commentary on the potential problems of using colonial texts to reconstruct pre-Hispanic cultural norms.
- 12 The relationship between Andrés Victorio and María Anastacia Vásquez was only counted once here, even though they were tried in 1794 and 1797 (Case 17).
- 13 Relationship types reflect accusations or the type of relationship being scrutinized.
- 14 *...los primeros obsequios, y servicios de sus hijos, que le son debidos por naturaleza...* ACGA A1.15 Leg. 5475 Exp. 47050 f. 12v.
- 15 Cases 11, 29, 33, 45, 48, and 59.
- 16 Scandal and magic were the other two weapons discussed by Stern (1995, 108–10).
- 17 The nature of the relationship between Narciso and Gregoria would be contested later in the trial with the claim that Narciso and his wife had raised Gregoria but were not her (biological) parents. This issue will be discussed in Chapter 5.
- 18 See Schwaller (2011) for a description of the various roles within the ecclesiastical bureaucracy. The provisor was the chief administrative officer of a New World diocese under the bishop. The provisor was often also the vicar-general, the superior ecclesiastical judge of a diocese and chief administrative officer under the bishop (Schwaller 2011, 78, 279).
- 19 *Si decis algo me ajondás pues me meten en la carcel y á vós en la Casa Nueva.* AGCA A1 Leg. 2959 Exp. 27997 f. 3v.
- 20 See Schwartzkopf (2013, 740) for a discussion of the evolving role of *comisionados*. In the late colonial period, these individuals lived in largely indigenous communities and were sources of information and surveillance for the *alcalde mayor*.

- 21 ...q.e abia pecado con su dha hija por tener que sentir de su muger, pues sabia que tenia ilicito comercio con el declarante, con José y Man.l de Pinula, y otros que no se acuerda; y q.e lo podia acreditar. AGCA A1 Leg. 2959 Exp. 27997 f. 6v.
- 22 ...no fue porq.e hubiera sido verdad q.e habia cometido tal pecado sino apasionado de lo q.e le habian contado de la ilicita amis[tad de]l Comisario y su muger. f. 9.
- 23 ...el mas orrendo crimen y p.a apoyarlo sugerir a la hija a q.e bulnerase el honor de su Padre, que es hasta donde puede llegar la malicia. f. 15.
- 24 ...á escondidas de su Padre por el temor q.e le tiene á este la Madre de la Confesante por q.e es muy bravo, y luego la golpea. AGCA A2.2 Leg. 237 Exp. 5068 f. 24.
- 25 ...haviendo tenido q.e ver con esta Manuel Cornel, y despues con la muger del q.e declara Maria Manuela Lopes; en venganza se enredó el con la referida su hija María Leandra, y q.e por esto lo puso preso el citado Jues. f. 6v.
- 26 ...haviendosele imputado por este q.e el q.e declara tenia ilicita Amistad con Maria Leandra Amperes su hija, no siendo asi, le dio corage, y lo hiso de veras... f. 8.
- 27 ...en venganza de lo q.e Amperes hiso con su muger, se empeño en perseguir á la de Amperes, y como no pudo conseguir su intento, y la muger del q.e habla lo trascendio, acordandose de lo q.e havia hecho con ella Amperes, trató de persuader á la muger de este á q.e pecase con el q.e declara, y q.e ultimamente lo consiguio, y por su medio tubo q.e ver ilicitamente con Maria Manuela Lopes...como unas ocho ocasiones. f. 8v.
- 28 ...picada de q.e haviendo tenido q.e ver Josef Silverio Amperes con la q.e declara, se lo dijo el mismo á su Marido, con q.n por esto, y por haver la pillado en el acto con Amperes paso trabajos. f. 14-v.
- 29 ...quiso aquel matar á este, por cuya causa el referido su marido la daba mala vida: q.e por q.e este se sosegara, y por vengarse cometio este pecado, no estando impuesta en la gravedad... f. 18v.
- 30 See, for example, Rojas Flores (2007, 116). See also Case 15, where the defendant attributed the accusation of incest with his daughter to the crazy jealousies of his wife.
- 31 See Socolow (1980, 46, 51–2), Premo (2005, 125), and Komisaruk (2013, 238).
- 32 ...que de miedo de lo mucho q temio la avia de castigar. f. 3v.
- 33 See Francisco de Solano (1969) for linguistic areas in late colonial Guatemala.
- 34 ...si tu suegro quisiere asotarme me defendereis... f. 3v.
- 35 However, her mother-in-law denied having said this in her own testimony.
- 36 Yo soy hija solo vengo á ver como haz am[aneci]do...
- 37 ...quiso aun darle fuego á la casa hablando desatinos.
- 38 ...juzgando mal de su suegro, y desesperada entre otros desatinos que iba á executar como que estaba fuera de si, tomó un machete del campo, y se hirio con el la garganta con animo de matarse...
- 39 ...la habló con amor diciendola que el era que avia ido á ver como avia amanecido...
- 40 See Ochoa Sanchiz (1980, 190) regarding reports of indigenous women who ran away to the wilderness to prevent Spaniards from forcing them to commit adultery.

- 1 Following Jack Goody (1983, 136), the Church had used two systems for determining degrees of consanguinity—the Roman and the Germanic—with a formal shift to the Germanic system in the eleventh century. The Roman system counted degrees by the number of acts of generation between two individuals such that an uncle and niece, for example, were related in the third degree. That is, ego to ego's parent equaled one degree, ego's parent to ego's grandparent equaled one degree, and ego's grandparent to ego's uncle equaled one degree, totaling three degrees. In the Germanic system, sibling groups formed a generation, and degrees were counted by determining the number of generations from a common ancestor. In this system, an uncle and niece would be related in the second degree.
- 2 *...yaciendo á sabiendas con su parienta, ó con parienta de su muger ó de otra con quien hobiese yacido fasta el quarto grado....* This is in accordance with the dictates of the Fourth Lateran Council of 1215, which narrowed incest prohibitions from the seventh to the fourth canonical degree of consanguinity and affinity.
- 3 *Compadradgo* (or *compadrazgo*) would come to refer specifically to the connection between a godparent and the parents of a child. See *Diccionario de Autoridades* (1726–1739 v. 2). This text defines this term in the context of baptism, though presumably it would also apply to confirmation.
- 4 Spouses of spiritual parents were also included in this category, at least for the rite of baptism.
- 5 *...tan mancebos que non podiesen mantener castidad....*
- 6 It is unclear from the wording whether a woman would also be put to death for committing incest or whether she would be subject to the penalty for adultery specific to women.
- 7 Only one person was to act as a sponsor for baptism. At most, one man and one woman were permitted. The number of sponsors was not specified for confirmation. However, it was spoken of in the singular.
- 8 Following the *Diccionario de Autoridades* (1726–1739 v. 2), *cuñado(a)* referred to any relative through affinity regardless of degree. However, its authors noted that in contemporary common usage it denoted a husband or wife of a sibling or the brother or sister of one's spouse.
- 9 *Cópula o acceso carnal con parienta por consanguinidad o afinidad.*
- 10 *...grados de parentesco, de conSaguinidad, y aFinidad, y compadrazgo....* Newberry Library Ayer MS 1508, 147v-8.
- 11 *A sus hijos e hijas los llamaban siempre por el nombre del padre y de la madre....de esta manera, el hijo de Chel y Chan llamaban Nachanchel, que quiere decir hijos de fulanos y esta es la causa....dicen los indios que los de un nombre son deudos y se tratan por tales...Y asi ninguna mujer u hombre se casaba con otro del mismo nombre porque en ellos era gran infamia.*
- 12 *...parentesco, así carnal como espiritual de la abuela, de parte de la madre....*
- 13 See also Fuentes y Guzmán ([1690] 1882 v. 11, 32).
- 14 The responsibilities of a *fiscal* included ensuring that all residents attended Mass, teaching children the catechism, and recording matters such as the rite of baptism (Burkhart and Gasco 2007, 212). See, for example, Case 1. This type of *fiscal* differed from the crown attorney referred to by the same title.
- 15 *...no era bien fuese co[n] Una criatura en los brazos... f. 1v-2.*
- 16 *Oidores* were judges with civil and criminal functions in Guatemala and other non-viceregal audiencias.
- 17 *Parcialidad* was the Spanish term for a pre-Hispanic Maya unit of social organization, several of which might have technically fallen under the jurisdiction of a colonial town.

- 18 ...siguiendo las huellas del Apostol que los que publicam.te pecan, publicam.te sean corregidos...determiné darle a dho inestuuoso publico cincuenta asotes publicos, y siendo requerido para dha penitencia clamó disiendo que pedia no lo desonrrasen y que ofrecia la penitencia pecuniaria de sien para que se aplicasen a esta Yglec.a y Juntam.te prometiend emmienda... f. 1, f. 20v.
- 19 ...siendo tan facil, especialm.te á los Curas, imponerles por qualquier delito pena de asotes, y despues con titulo de piedad, compensarla en dinero, obligandolos á esta con amenaza... f. 12.
- 20 The *ius commune* tradition generally refers to a culture of legal thought formed by a combination of canon and Roman law.
- 21 In fact, in Case 22, the magistrate explicitly stated that Eusebia Escalante's sentence of reclusion stemmed from perjury.
- 22 Penalty information was taken from records of 167 individuals in which Josef Silverio Ampérez (Case 65), Andrés Victorio (Case 17), and María Anastacia Vásquez (Case 17) were counted twice because they were each tried on two separate occasions. Punishments such as spiritual exercises, the habilitation of marriage, or court fees were not included as major penalties in the quantitative data. However, all penalty information, including these minor sentences, can be found in the Incest Case Log in the Appendix.
- 23 If a cease of communication was ordered of one party, all parties whom the order would affect were included in the total number of those subjected to this penalty.
 - 1 Similar to Buffington's (2000, xi) use of the term "criminality," its use here is intended to highlight the constructed nature of criminal matters.
 - 2 ...la diferencia, y maior gravedad de la copula nefaria, entre padre, é hija, comparada con la de incesto en general... AGCA A1.15 Leg. 4381 Exp. 35730.
 - 3 ...no digo entre Madre, e hijo, pero entre tia, y sobrino, ó entre primos, causa natural horror el co[ñ]ito inhonesto, se resiste por si enteram.te a la naturaleza por desvocada que sea, y con mucho mayor Razon se resiste el dar excensia al que se imputa a mi p.te por ser su Madre de sessenta años; y por q.e no era posible que de un golpe huvieran vensido esta natural resist.a y casual, por Razon de la hedad; havia p.a ello precisam.te de haver precedido continuaz.n de acciones cariñosas, con que aunq.e con mucha dificultad tal vez, se Huviera Ydo vensiendo el natural horror, pero nada delito ha precedido...
 - 4 See, for example, McKinnon (1995) on scientific discourse and Archibald (2001) on classical and medieval literature.
 - 5 See, for example, Fox (1980, 48).
 - 6 ...el delito de que tratan es atroz, y lo es en tanto grado, q.e ni por dro. Canonico, ni Civil, se encuentra texto expreso que trate (en materia de incestos y sus penas) del executado entre el Padre y la hija; delito verdaderam.te q.e ni aun se presume, y su repugnancia nos quedó detallada desde la ley escrita; y aun Seneca el mayor, siendo Gentil, quando á otro proposito tocó p.r insidencia la deformidad del coito habido entre los Parientes ó deudos immediatos, lo calificó por criminal criminalisimo; y efectivam.te p.r dro. comun, los reos deste delito eran castigados con pena de muerte, haviendo fuerza, como p.r exemplo, el acceso con la entenada, Madrasta, sobrina, &.a con q.e siendo de Sup.r gravedad el que se dice haver tenido Patricio de Leon con su tierna hija Fran.ca no havia otra cosa q.e hazer, sino p.r el merito de la causa mandarlo ahorcar... AGCA A1.15 Leg. 3028 Exp. 29261 f. 9v-10.
 - 7 ...el incesto q.e cometio no es de los mas áborrecidos, y que castigan con mas severidad las Leyes, por que la Muchacha no es su Parienta por consanguinidad, sino por afinidad. f. 5v.

- 7 *...el incesto q.e cometio no es de los mas áborrecidos, y que castigan con mas severidad las Leyes, por que la Muchacha no es su Parienta por consanguinidad, sino por afinidad.* f. 5v.
- 8 Note that incidents of incest outnumber incest cases because some cases included multiple accusations of incest.
- 9 These percentages derive from penalty data that was limited to individuals charged with single (as opposed to multiple) incestuous relationships/incidents and whose sentences were recorded.
- 10 These percentages come from data on eighty-nine two-person relationships where affinity and consanguinity could be determined. (Eight others did not have the relevant relationship information.) Three-party incest cases were broken into two data records (e.g. man/sister 1 of 2, man/sister 2 of 2).
- 11 *...mediante á que el parentesco, que entre los dos mediaba, provenia de copula illicita...*
- 12 *...el hallarse desnudos en un mismo lecho los parientes no funda presuncion, ni prueba de copula entre ellos; p.r q.e aunq.e bastaria respecto de los estraños, tienen los parientes a su favor mas fuerte y vehemente presuncion de honestidad, nascida del mismo parentesco.* AGCA A2.2 Leg. 205 Exp. 4188 f. 32v.
- 13 *...el hallarse los consanguineos desnudos en un mismo lecho prueba sufficientem.te el incesto; pero tambien dice q.e debe entenderse quando estos parientes colaterales yacieren en el lecho secreta, y ocultam.te, y no en publico, p.r q.e en este caso no bastaria semejante prueba.* AGCA A2.2 Leg. 205 Exp. 4188 f. 33.
- 14 Collins cited a bound volume of *cabildo* records related to the management of the community fund of Jacaltenango dated from 1627 to 1756.
- 15 *...los vicios dominantes son la embriaguez y lascivia, abandonándose a incestos horribles entre padres y hijos...siendo el riesgo próximo el dormir todos juntos.*
- 16 *...en una propria cama, vajo de una misma cubierta con la referida su Madre, y si por parte de esta á experimentado alguna [vez], accion, ó cariño especial q.e denote algun requerimiento torpe...*
- 17 *...desde pequeña ó desde q.e le entro la razon le puso su Madre cama separada de suerte q.e nunca se sirbio de la de su Padre aunque estaban en una misma piesa...* AGCA A2.2 Leg. 199 Exp. 4085 f. 9v-10.
- 18 Miguel's surname was also written as Cayxon, Caxon, Caison, Cayson, Caychon, and Cahxon.
- 19 Antonia's surname was also written as Chacal, Chabalan, and Zic.
- 20 *...nunca, en ningun tiempo, ni por mal pensamiento ha tenido con la referida su Madre el mas leve descomedimiento sobre el particular, pues á mas de ser Muger mayor, siempre le ha guardado el respeto devido de Madre...*
- 21 *...accion alguna que indique maldad pues Cantarillas trata a la Agustina con el respeto de cuñada durmiendo cada uno en su cama y solo si se resiven a la hora de comer y beber...y quando murio la muger de aquel le dejó encargado a la Agustina su hermana q. cuidase á su marido lo mismo que ella...*
- 22 *...poseida de miedo, terror, y respeto, á sus riñas y amenazas...* f. 4v.
- 23 *...remediasse su desgracia, pues se condenaba, y contra su voluntad se hiba al infierno...* f. 4v.
- 24 *...valiendose de los halagos de Padre y de la inocencia de la exponente, la primera vez tubo polucion con ella, esto es, q.e usaba de sus piernas, y lo externo del utero p.a la confricacion, y poluccion...* f. 6.
- 25 *...y aunque extorta le entregó su cuerpo, fue poseida del terror, y del respeto...* f. 6v.
- 26 *...pero ningo. consumó intra vas. p.r q.e tenia particular estudio, en la extravasacion...* f. 6v.
- 27 *...no teniendo mas livertad q.e ella ni mejores alcances, queria remediarlo con disimulos y con las quejas...* f. 7v.

28 ...como ella hera muchacha y le tenia un respeto reberencial spre. le obedecia en cuanto le mandaba saliendo con el fuera de la casa á biajes y a su Labor, y q.e spre. q.e estaban solos, el la acariciaba atribuyendo ella estos cariños á un amor onesto, hasta q.e el poco, á poco se fué exediendo con ella en las ocaciones á proposito sin mediar palabras ni conosim.to y q.e cuando hubo lugar a la refleccion yá Felipe Gil havia consumado el acto con ella: q.e la q.e declara no tenia trato con ning.a otra persona mas q.e con el, y spre. sedia aunq.e con repugnancia p.r no atreberse á desirle q.e no... f. 9v.

See Premo (2005, 61–8) for a discussion of the concept of “reverential fear” and debate about who had the capacity to inspire it.

29 Again, Cases 17 and 65 were broken into 17a/17b and 65a/65b.

30 Sometimes multiple plaintiffs who did not share a gender came forward to make an accusation. Thus, each plaintiff was considered individually in these tallies.

31 ...p.r ser cristiano, y desseoso de la honrra de Dios...

32 ...solo el poder abitar con el lisitamente si se le dispensaba... f. 5.

33 ...me rogaban no se supe ese nunca su delacion por el cruel castigo q.e experimentalian. f. 1v.

34 ...el motibo q.e tuvo p.a denunsiar á su P.e siendo sobre la tierra los P.es las personas a qns mas reverensia y amor deben los hijos? f. 5.

35 ...los hijos son cuerbos p.a sacar los ojos y que conforme a dro No deben tirar contra su Padre sino en cassos capitales por el capitulo Quarto del Decalogo Que hassi lo manda... f. 6v.

36 ...por amor de Dios que le buscasse una casa donde servir por que no queria estar con su Padre...

37 ...lo extraño que es, el q.e un hijo acuse á su Padre... f. 12.

38 ...como viese q. su P.e Jose M.a huviese echado sobre si un crimen q. no habia cometido, esta por no desmentirle, ignorando lo q. hasia, manifestó su convencimiento... f. 14v.

39 ...pues su propria hermana Juana Josefa la acusa, que esta no há sido apremiada, ni obligada para que los denunciase... f. 5.

40 ...es mentirosa su hermana, y tal ves la han aconsejado. f. 5.

41 ...pues no pueden ser zelos solamente pues de su hermana; sino motivos positivos los que le asisten para querellarse de su illicito comercio con su marido... f. 16v.

42 ...siento q.e mi hermanita esté creciendo p.r q.e no viese el mal ejemplo de mi Padre. f. 5v-6.

43 ...la sujestion de la tia no es creible que hiciese en la petrona maior impresion que la natural de un[a] hija á un Padre para caluniarlo dijo que no es de estrañar el que se dejara la muchacha llevar del concejo de la tia quando esta le ha impuesto de que no es su hija. f. 11v.

44 Ella no se hubiera atrevido á semejante desacato, si su tia Antonia no la hubiera sugerido á la desovediencia manifesta[n]dola que no era hija suya. f. 20.

45 ...no soy casado ni tengo hijos ningunos p.r que una muger q. tuve en mi compania esta me estubo cuidando p.r algun tpo. y asi q. se aburrio de cuidarme se mud[ó] y se yevó a sus hijos...una muchacha q. aparesce acriminandome de unos tan enormes delitos, q.e esta es hija de la muger q. me cuidó, y se yama Maria Jososefa [sic] la q. no es hija mia p.r q. si lo fuera no tirara tan desenfrenadam.te en contra de su padre...si fuera su padre como eya dise le tirara la sangre a bolber p.r su padre viendolo en la calamidad q. se halla, y preso con tan grandes crímenes de q. lo acusa, y asi doy p.r nula su declarasion falza, y esta se tiene p.r hija de la dh.a Micaela, y no lo es p.r q si lo fuera no procurara ni ubiera procurado desunir a su padre del lado de su madre sabiendo q. eran casados luego no es hija sino pepe...

The term pepe is discussed further in the following chapter.

- 46 Don Juan Manuel would later deny authorship of this text.
- 47 ...*me he enterado de que dha Secilia no es parienta por ningun termino en sanginidad mia...* f. 21.
- 48 ...*se hapellidan Mangoches, y estas me tratab.n de pariente, Yo con la Ygnorancia dha por tal las conocia= Por lo que es, que la dha Secilia dise ser mi Marido quien la deve su onór, sin embargo de ser falso...* f. 21-v.
- 49 ...*no es presumible que esta se abanderize mas á la que confiesa que á su misma hija.* f. 6v.
- 50 ...*en el concepto legal siempre se presume q.e el padre quiere favorecer la causa de su hijo.* f. 18.
- 51 Hipólito's surname was also written as Cojulun, Cojulún, Coxulum, Coxulun, Cujulun, Cujulum, and Cuhulum.
- 52 ...*tanto por su sexo y calidad, quanto por que siendo la muger propia, no puede descubrirse con que intension, y quales antecedentes la compelerian á deponer contra su marido un testimonio tan escandaloso...* f. 34v-5.
- 53 ...*si huviera cometido tales exesos como hombre lo confesara...quando á su hija le levantó este testimonio como no se lo ha de levantar al confesante.* f. 18.
- 54 ...*y como sobrino de la muger del declarante se valieron de la ocasion para formarle esta calunnia al confesante.* f. 18.
- 1 An earlier version of this chapter appeared in Saffa, Sarah N. "“She Was What They Call a “Pepe””: Kinship Practice and Incest Codes in Late Colonial Guatemala." *Journal of Family History* 44 (2): 181–99. Copyright © 2018 (Sarah N. Saffa). DOI: 10.1177/0363199018818617.
- 2 ...*á el Padre de la muchacha le crio de Pepe, p.r cuyo motivo las criaturas le intitulan de abuela.*
- 3 ...*p.r la causa de haverla cricido, le disse Prima pero q.e no hay ningun parentesco.*
- 4 ...*es hija de Ana Albarado y q.e esta la hubo antes de su primer matrim.o con Benito Berriondo quien trataba á esta muchacha con el cariño de una buerfana recojida, q.e algunos en el Pueblo creian ser hija de Benito y de Ana, otros q.e de esta solam.te y algunos q.e ni de uno ni de otro, sino q.e hera lo q.e llaman Pepe...* f. 8v.
- 5 ...*pepe ó muchacha á quien su muger Ana Albarado havia recojido en su casa p.r caridad p.a criarla...* f. 12.
- 6 ...*p.r su ignorancia y haver creido q.e hera muchacha á q.n su muger havia criado p.r huerfana ú otro motibo de caridad.* f. 12v.
- 7 ...*por el respecto q tenia a su Madre Magdalena de Estrada y mied[o] grande a su tia Maria Phelipa permitio q esta su dha tia diera la criatura Gregoria Antonia hija suia a los dichos Narciso Gonzales y Petrona Quintanilla, su muger para q de charidad la crian.* f. 17v.
- 8 ...*Yo y dho Narciso mi marido, somos sus Padres Lex.mos y q. como tal la criamos, y casamos; Dezpuez de q dho Narciso mi marido; la estrupo violentam.te sin atender q. era su P.e...de cuya Querella, no solo resulta la calumpnia Ynfamatoria contra la crianza, q nos deve, sino tambien el Despojo, q padecemos de ntros cortos vienes; Y siendo, siniestra la querella, ni concurrir la gravedad q. se supone de q. siendo Padre, huviese extrupado su hija; ni menos constarme á mi, q aun no siendo lo huviese executado; por tanto, recurro a Vm...* f. 18–18v.
- 9 ...*si mediante á que la Dolores y su difunta muger no eran hermanas sino hijas ambas de Padres no conocidos, se podria casar con la Dolores para no dejarla desamparada...* AGCA A2.2 Leg. 205 Exp. 4188 f. 8.

- 10 *Estimada Prenda de mi Corazon, y todo mi consuelo Maria Gaitan...Hija esta solo sirbe de partisiparte como lla poco falta q.e quiten de las piedras y pongan en nosotros y por todas estas cosas y p.r bolber p.r tu credito y el mio te mando esta para q.e sepaz q.e la intension q.e llebo en el Dia es q.e nos pongamos en estado. esto bajo tu pareser pues me abis de mandar abisar si es tu gusto para segir la istansia. esto tanto lo ago p.r la Bolunta q.e te tengo como p.r bolber p.r tu onor y tapar tanta boca pues el termino con q.e nos llaman es tan grosero q.e nos llaman p.r inses.tos y asi solo tu repuesta espero para escribirle al Sor. Cura y correr las delijensias que llo te prometo portarme como ombre de bien y quidarte como bos mereses. lo q.e si te digo es q.e bien es q.e no ai ningun inconbiniente. pues piensan q.e bos sos mi Cuñada y no q.e podemos cazarnos y asi no dejes de responderme lo mas pronto q.e podas...Domingo Morales. AGCA A2.2 Leg. 205 Exp. 4188 f. 14-v.*
- 11 *...ha alegado verbalmente q.e sin embargo de que se estimaban y reputaban en el concepto publico por tales hermanas, en realidad no lo eran, sino solo de leche, p.r q.e su muger havia sido unicamente expuesta á las puertas de dha Manuela de Leon, y de su marido Pantaleon Gaitan...y q.e la dha M.a Dolores es hija legitima de los nominados consortes... AGCA A2.2 Leg. 205 Exp. 4188 f. 16v.*
- 12 *...p.a averiguarse con certeza de ser, ó no hermanas... AGCA A2.2 Leg. 205 Exp. 4188 f. 16v.*
- 13 *...haviendo muerto los legitimos padres desta muchacha, y quedado enteramente huérfana, el Padre Zapata tomando prenda en su seguridad, la huviese entregado a su hermana de leche, como asi lo ha dicho ultimamente el mismo Domingo procurando dismentir el concepto comun de que la Ramona su muger y la Maria Dolores fuesen hermanas en realidad. AGCA A2.2 Leg. 205 Exp. 4188 f. 25v.*
- 14 *...p.r haver fallecido sus Padres, se havia venido la muchacha á buscarla y ella como Hermana mayor la havia recojido, y tenia en su poder... AGCA A2.2 Leg. 205 Exp. 4188 f. 28.*
- 15 *...los expuestos, del mismo modo llaman, y reverencian p.r padres a los q.e los crían y mantienen... AGCA A2.2 Leg. 205 Exp. 4188 f. 29v.*
- 16 *...dentro y fuera de casa se miran y tratan como hermanos. AGCA A2.2 Leg. 205 Exp. 4188 f. 29v.*
- 17 *Lo cierto es, q.e si Morales vivio en la duda de que propiamente era cuñado de la Maria...desde luego no se le puede a Morales arguir de que cometiese incesto aun quando se le convenza de haver tenido trato ilícito con la Maria... AGCA A2.2 Leg. 205 Exp. 4188 f. 30-v.*
- 18 *...efectivamente no estaba en la creencia de que aquella era su Cuñada en realidad... AGCA A2.2 Leg. 205 Exp. 4188 f. 30v.*
- 19 *Si estaban en la inteligencia de q.e eran parientes tienen a su favor la presunción mas fuerte y vehemente de honestidad. Si se tenían p.r libres de parentesco, no hai tal incesto, mayormente no haviendose probado el coito... AGCA A2.2 Leg. 205 Exp. 4188 f. 33v.*
- 20 *...no cabe en la cabeza su perpetración, pues la misma naturaleza lo repugna... AGCA A1.15 Leg. 5390 Exp. 45725 f. 34v.*
- 21 *...mirando el Amor q.e mi Marido, le tiene á sus Hijos como Padre al fin, me dijo, q.e á ella se le ponía q.e mi Marido estaba o trataba ilícitamente con mi hija. respondiendole llo q.e no podía ser que siempre era así q.e p.a todos sus hijos era Amorozo. AGCA A1.15 Leg. 5426 Exp. 46305.*

- 22 ...*tu heres la q.e mandas aqui, y no esa...* AGCA A1.15 Leg. 5425 Exp. 46287 f. 3v.
- 23 ...*esta es Simona, esta sos vós...* AGCA A1.15 Leg. 5425 Exp. 46287 f. 4.
- 24 ...*si era chucha, que si no era su Padre, y le respondia que no le hacia, que si le sucedia alguna cosa, que el respondia por todo, que no tuviera miedo.* A1.15 Leg. 2965 Exp. 28088 f. 4v-5.
- 25 ...*las palabras que profirio para apagar el ardor de la pacion que le dominaba, y las contestaciones que la dió dirigidas á ablandar su constancia.* AGCA A1.15 Leg. 5390 Exp. 45733 f. 6.
- 26 ...*aunque ella se resistio diciendole que si no beia que lo miraban como a Padre, que como queria aser esas cosas estando casado con su Madre...* AGCA A1 Leg. 2914 Exp. 27094 f. 10.
- 27 ...*segura confianza del marido p.r aver este criado á la Juana aun desde pequeña y p.r esta razon tenerla p.r hija pues reciprocamente assi le tratava en aus[encia] y pr[e]cencia de la madre. bastante fé era esta para no sospechar la mas Leve malicia.* AGCA A1 Leg. 2914 Exp. 27094 19-v.
- 28 ...*no era su madre que bien podian pecar...*
- 29 José denied that he told Anica he would marry her, as he was aware of the impediment that stemmed from their relationship to one another. Anica initially denied, but then conceded, that she knew they were unable to marry.
- 30 ...*pero luego que apagaron la candela se llegó [á] ella el dho Rivas á estarla forzando, y la declarante aunque se recistió con las reflexiones d[e] que habia comulgado aquel dia, que tenia amistad con su hermana, y que finalmente no era su gusto, le contestó Rivas no tenia animo de casarse con su hermana, y aunque ultimamente le manifestó lo odioso que le era su perzona logró Rivas sus torpes decesos, pues no tubo á bien evitarlos gritando porque temió escandalizar á los que dormian halli, y que su honor lo padeciese...* AGCA A2.2 Leg. 216 Exp. 4496 10v.
- 31 Pero lexos Sor. de obserbar en el un christiano proceder ha llegado á tal modo su infamia, q.e sin temer á Dios, á la Justicia ni á mi á desflorado violentamente haze pocas horas á una Muchacha Sobrina mia q.e vive vajo de mi amparo... f. 1-v.
- 32 ...*le decia á su marido, suelteme, no sea indigno p.r Maria Santissima, mire q.e se lo digo a su Muger pues yo soi donzella, y sobrina de su Muger: á que le contextaba, q.e aunq.e fuera, q.e media vez q.e el metia el pie en el lodo, lo sabia sacar, y q.e si se lo decia á la q.e declara, la havia de matar...* f. 2.
- 33 ...*aunq.e estaba avierta la puerta, y su Marido con su Sobrina en la cama.* f. 2v.
- 34 ...*date prisa antes de que venga tu madre y tu muger...* f. 2.
- 35 ...*no queria de aquella suerte sino que subiese encima de ella...* f. 2.
- 36 ...*ponerla en la Casa nueva p.r q. no era su Padre sino su Cuñado y q. le consta de positivo q. viven juntos como marido y muger y que su tienda es una Sodoma p.r la aguard.te y concurrencia q. alli hay en perjuicio a la R.l Universidad...*
- 37 ...*la Agustina publica q. Cantarillas es su Padre y como este és ya hombre grande y ella muy moza respecto del por este motivo podrán crerlo algunas personas...*
- 38 ...*en realidad no son pariente[s] sino que el le trata a la declarante tia por, cariño q.e le tiene.*
- 39 See also AGCA A1.15 Leg. 2166 Exp. 15590. It includes an alleged (hyperbolic) comment about how one would find more than fifty women dressed as men in the convent of San Francisco de Guatemala at night.

- 40 ...*jamás ha tenido tal amistad, pues siempre ha tratado así a la Ramona, como a sus otras Cuñadas, como hermanas....*
- 41 ...*el es temeroso de Dios, y sabe muy bien la gravedad del pecado q se le acumula, y nunca a tenido trato ilícito con ninguna de las dh.as sus dos nu-
eras en obras ni en palabras por que siempre las á mirado, y atendido como
a sus hijas propias...f. 7.*
- 42 Though occasions for sponsorship in Latin America today can be quite numerous (see Foster 1953, 8), it is likely that the *compadrazgo* referred to below was associated with the rites of baptism or confirmation.
- 43 ...*para q de esta suerte se experimentase la ermienda con el parentesco
contraído....*
- 44 ...*es su conp.e y mal pudiera comete tal....*
- 45 ...*primero se lo llevarian los diablos, antes que tal hiciese...f. 8v.*
- 46 ...*para obiar esta ofensa le á ynstado ál susodho á que encompadren. f. 2v.*
- 47 María de la Concepción Palacios also hinted at the incompatibility of *compadrazgo* and sexual relations during interrogation about Benito Gueren's involvement with both her and her sister (Case 8). She admitted to an *ilícita amistad* with him in the past, "but year-to-date, she separated herself from it, making him a *compadre* through her son's confirmation."
- 48 See, for example, Foster (1953), Pitt-Rivers (1958), and Gudeman (1971).
- 49 ...*si se halla (como dice dha su Madre estar violada) haver sido ótro el
hechor; y dha Muchacha, por salvar al que fue, (que pudo ser Perzona de su
carino) haver condenado á dho Francisco, con el dicere, de que fue su tio,
para evadirse del castigo de su Madre. f. 7v.*
- 50 ...*la ligereza, y temeridad con q.e la Josefa ha querido constituir á su Pad.e
autor de su desfloramiento, y preñez. AGCA A2.2 Leg. 199 Exp. 4085 f. 7.*
- 51 ...*por encubrir su fragilidad, ha querido acriminar á su Pad.e...AGCA A2.2
Leg. 199 Exp. 4085 f. 8.*
- 52 Lorenzo's surname was also written as Ratzzal, Ratztzal, and Ratzab.
- 53 ...*le seria mas natural desirle a mi parte son vuestros mis hijos y no de Lo-
renzo, relevante prueba é sean de del predho. Ratzal, q.e confiesa su ilisito
trato, q.e no de q.n se infiere...AGCA A1 Leg. 2914 Exp. 27094 f. 15v.*
- 1 ...*la rusticidad, é ignorancia de los Indios; principalm.te de las Mugeress...
p.r esta razon no hay en los de esta clase el mismo dolo y malicia q.e en los
de la otra para delinquir...conforme á lo prebenido p.r las Leyes, no debe
imponerse la misma pena á los Indios, q.e a los Ladinos, sino q.e aquellos
deben ser juzgados con equidad, y no con el rigor, q.e disponen las mismas
Leyes se jusgue á estos...*
- 2 *Era pues presiso un impulso, y movimiento, extraordinario de la bondad, y
poder de Dios, p.a sostener á Hernandes en una provocacion tan singular
como esta; y mas viviendo junto[s] en donde no podia resistir a los ruegos,
y lagrimas, de una Madrastra zelosa, y afligida, q.e hasta la salid[a] á Misa
le negaba, p.r pareserle, q.e iba a buscar otr[a] Muger. ¿Que podia pues
esperarse de un Pobre Yndi[o]; en quien la ignorancia, y rusticidad caminan
juntas? El mayor santo huviera caído; co[n] semejante provocacion...*
- 3 ...*parece que debe mirarse con alguna eguidad quando se comete por Yn-
dios, cuia ignorancia funda á su favor la presuncion de no proceder con la
malicia que se supone en los de las otras castas. f. 7v.*
- 4 Reference to this law also surfaced in Case 54.
- 5 ...*deb[e] suponerse mas adelantada su civilizacion (á lo menos respecto de
la Religion Cristiana) q.e en los inmediatos á la Conquista... f. 7v.*
- 6 It is noteworthy that Mariano identified himself as *mestizo*, yet he was else-
where described as *indio tributario* and evidently treated as if he were Indian.

- 7 ...la torpeza de los Yndios, é indiferencia con que regularm.te ven el delito de incesto, les hace caer en el, q.do la ocasion se les presenta. f. 10.
 - 8 ...de la rusticidad de los Yndios y del poco escrupulo con que cometen delitos de esta clase... f. 10v.
 - 9 Se ha dicho ser Ynd.s los delinquentes, con lo q. se dijo todo sobre esta particular, combiniendo el modo con q.e se portan en q.to al sexto, con lo q.e cantó Ovidio de otras gentes muy parecidas á nros. naturales entre las q.e indiferentem.te se mezclaban el Padre con la hija, y el hijo con la madre... f. 13.
 - 10 ...aunque es mi padre pero no por eso a de salirse con el echo pues no sera cristiandad ni profesaremos la fe de Jesucristo por lo que pido contra Bis-ente Fuentes por aber anulado mi matrimonio y el suyo abiendo yegado a tener auto foradamente con mi muger por dos veces por lo que en meritos de Justicia pido un destierro para toda su bida...prosediendo yo a no juntarme con eya por ninguna manera por que no sera rrazon que yo mismo Busque esa sal pais. Bien sabe el Senor General el delito que se tiene pues es mi padre, y faltara yo a ser cristiano si n[o] lo hiziera asi y en meritos de Justici[a] pido que lo destierren para toda su bida a un castiyo...que yo estando el no me junto con eya aunque egecuten en si el quastigo que el Senor General mandara... AGCA A1.15 Leg. 2965 Exp. 28088 f. 1-v.
 - 11 When José said he would “not reunite with her by any means,” he used the verb *juntarse*, which also referred to sexual intercourse (see *Diccionario de Autoridades* 1726–1739 v. 4).
 - 12 Thomas Gage ([1648] 1958, 204) used the term “salt earth” when discussing salt production in Amatitlán, noting how mules were brought there to feed on the “salt earth.”
 - 13 ...pensando se huviese mesclado con otro hombre estraño carnalmente, y resultó que su mismo Padre del que expone Vicente Fuentes, fue el que cometió este crimen, por lo qual se presento a la Justicia para que se le escarmiente. AGCA A1.15 Leg. 2965 Exp. 28088 f. 3v.
 - 14 Following an appeal, Vicente and Rosalía were assigned new legal representatives.
 - 15 ...procuró persuadir a su Suegro a fin de que contubiese su impetu, haciendole ver que era su hija politica, y que semejantes procedimientos quedaban para los irracionales, y no se oberbaban entre Cristianos...pero a pesar de esto Fuentes no hizo caso de estos combencimientos tan naturales, y por el contrario la insistia a que no tubiese miedo... AGCA A1.15 Leg. 2965 Exp. 28088 f. 8.
 - 16 ...no supo lo que se hizo, ni la gravedad del pecado que cometia, y pide se le mire con commiseracion. AGCA A1.15 Leg. 2965 Exp. 28088 f. 6v.
 - 17 Pero que queremos que practiquen unas jentes yncultas, unas jentes yn-brutesidas, unas jentes sin temor, ni respeto á D.s pues Esta En desir, que los Yndios p.r mas cognato q.e pongan sus Curas en ynstruirlos, Estan hasta El dia por conquistar... AGCA A1.15 Leg. 2965 Exp. 28088 f. 9v.
 - 18 ...falto de los principios racionales se deliberó á pecar... AGCA A1.15 Leg. 5390 Exp. 45733 f. 3v.
 - 19 Aunque Yndio rustico Vicente, y sin las luces necesarias de religion, despues de cometido su delito, lo conoció, é infirió su gravedad, y p.r esto impuso á su nuera perpetuo silencio, creyendo q.e con esto todo se havia concludido, y hechadosese trra y q.e con no bolverla á solicitar mas, cumpliria con Dios, y con la lealtad q.e debia guardar á su hijo: tales son los sentimientos sencillos, y nada maliciosos de los Yndios en esta parte, pues como en ellos no resplandecen las luces de religion y caridad, q.e en los cultos, se hacen acrehedores á la commiseracion. AGCA A1.15 Leg. 5390 Exp. 45733 f. 18.
- Charity is a theological virtue that refers to loving God above all things for his sake and loving others for God's sake. Religion, a moral virtue with which God is revered, is born from the theological virtue of Charity. See, for example, *Diccionario de Autoridades* (1726–1739 v. 2, v. 5).

- 20 *Quantos exemplos se leen en las Historias, de Mugeres que habiendo cuidado extrahordinariamente de la pureza, han caido por ultimo en las artificiosas trampas de un disoluto; y quien no advierte, que aunque sus cuerpos quedaron manchados, sus virtudes se han hecho mas admirables.* AGCA A1.15 Leg. 5390 Exp. 45733 f. 5v-6.
- 21 *...la union corporal de Padres é hijas era la mas monstruosa, vista solamente entre los animales.* AGCA A1.15 Leg. 5390 Exp. 45733 f. 7.
- 22 *...los inesperados movimientos de su suegro...la extraña inclinacion de que estaba poseido...la necia pretencion de su Padre.* AGCA A1.15 Leg. 5390 Exp. 45733 f. 7-v.
- 23 *Los rspts de su Padre, y l temr de no levantar la la mano contra el, la impedirn hacer los esfuerzos posibles en su defnsa; asi como quando un hijo es reprendido de su Padre injustamente, no se atreve contradecir, ni usar de sus derechos, por el miedo de incurrir en alguna falta. No debe dudarse tampoco que la Rosalia Surquiah esta imbuida en l error comun de las gentes idiotas, que los Padres debe obedecerse hasta en los mandatos pecaminosos; por que su condicion, y principios de gobierno no pronostican otra cosa.* AGCA A1.15 Leg. 5390 Exp. 45733 f. 7v.
- 24 *...la sensualidad es la pacion que mas difcilmente se vence; por cuyo motivo aseverare, sin temor de errar, que es el escalon mas trabajoso para los justos, que continuamente exercitan su cuerpo con asperas penitencias, y q.e ha sido la causa del trastorno de ilustratos entendimientos... Y haciendo tantos extragos, y en tales Personas. Que se debe esperar de una Yndia rustica sin principios de Religion, que no tiene otra regla para obrar que su propia voluntad?* AGCA A1.15 Leg. 5390 Exp. 45733 f. 8.
- 25 *...es bien savido que entre los Yndios ay unos que tienen mas malicia que otros...* AGCA A1.15 Leg. 5390 Exp. 45733 f. 14.
- 26 Compare with Lewis's (1995) analysis of a witchcraft case involving two free black women. Lewis found that, to her benefit, the defendant and her defenders were able to portray her as "not black" and "not female," two characteristics typically associated with witchcraft and viewed as inferior following racial and gender hierarchies that privileged Spanish and male statuses.
- 27 See, for example, Bertrand 1989, 163.
- 28 Her surname was also written as Sotoh and Tzoh.
- 29 *...la falta de instruccion y menos malicia q.e ordinariam.te o por lo comun se advierte en los de nuestra clase...* AGCA A1.15 Leg. 5390 Exp. 45733 f. 20v.
- 30 *...aunque le dijo q.e savia que estava con su ermana en ilicita amistad con palabra de casamiento, le respondio Quachita, q.e no le asia, q.e si resultava preada se llevaria la criatura a criar a su casa, y con este motivo se metio con l, de q.e a resultado embarazada...* f. 3.
- 31 *...p.r su ig[no]rancia nunca penetr el delito q.e cometio n[i] que fuese motivo de q.e se impidiese el casamiento q.e Quachito tenia propuesto a su hermana...* f. 5v-6.
- 32 Though Bernardo had said that he was not sure whether they were whole sisters or not.
- 33 *...enorme delito...en haver mantenido concubinato incestuoso con las dos Marias...sabiendo de positivo q.e son ermanas...semejantes exsos solo entre los irracionales se ven...como hombre fragil, y sin estos sentimientos cristianos, no gradu la enormidad q.e cometia en estos exsos de q.e se le hace cargo...* f. 5.
- 34 *...por su calidad ignorancia se disminuye mucho su criminalidad, y gravedad...*f. 17v.
- 35 *...temerosa de que su Padre hiciese lo mismo con la que declara lo bavisio al Alcalde del lugar, no habiendolo hecho antes por falta de advertencia,*

- y se halla en el día entregada en otra casa en donde le estan enseñando la doctrina pues su Padre no lo hacia...
- 36 ...si acaso es bruto para haber hecho semejante pecado, que sus Padres le criaron, y educaron con temor á Dios... f. 2.
- 37 ...ninguno Que es hermana de Madre, de Petrona Martel, q.e fue su muger lexitima pero q.e heran hijas de distintos Padres. f. 5v.
- 38 ...como tonto q.e es, no save. f. 5v.
- 39 ...lo hizo con el fin de casarse y como tonto no savia lo q.e hacia. f. 5v.
- 40 ...lo que no deve hacer fuerza, si se considera el Idiotismo que es tan proprio en los de su clase, y calidad. f. 8.
- 41 ...todo és verdad; pero q.e como era tonta, no sabia lo mal q.e hacia, hasta ahora q.e se lo han dicho. f. 8.
- 42 ...no puede ignorarlo, p.r ser cosa muy sabida aun entre las gentes mas burdas q.e el trato torpe de un mismo hombre con dos hermanas carnales es un nuebo delito, á mas de el de la simple fornicacion, y q.e en el p.r sus circunstancias de saber leer y escribir, y la de haverse rosado con gentes no se puede suponer la ignorancia q.e aparenta...
- 43 This does not include incidents where individuals were unaware due to intoxication, did not realize their relatives had a sexual relationship with the same person as them, or misunderstood the nature of a relationship like when Domingo Morales from Chapter 4 did not believe his deceased wife was the sister of the woman he wanted to marry.
- 44 Juan José's surname was also spelled Pisabah, Pixavag, and Pixabah.
- 45 ...hombre q.e es esto somos cristianos asi se cumple la Ley de Dios como es esto con tu hija... AGCA A1.15 Leg. 3028 Exp. 29261 f. 2v.
- 46 ...entre los Yndios y los que se crian a estilo de ellos, el delito de incesto, lo mismo q.e la embriaguez (como dice el P.e Avendaño, y apunta el S.or Solo[r]zano) no es de los pecados de mayor gravedad, por no tener la comprehension de su malicia... AGCA A1.15 Leg. 3028 Exp. 29261 f. 11.
- 47 ...el incesto cometido p.r Manuel Salvatierra con su hija lexitima Manuela es uno de aquellos delitos mas avominables q. puedan contarse entre los lacibos pues aun la misma naturaleza se orroriza de ellos.
- 48 ...el pecado de inesto es casi tan comun entre los Yndios como el de la embriaguez; pero el q. se comete en el primer grado de Padre con hija aun entre los Yndios gentiles se vio con repugnancia...
- 49 ...un hombre á quien naturalm.te debe respetar y temer.
- 50 ...estaba ebrio en terminos de no saver lo que hacia. AGCA A1.15 Leg. 2965 Exp. 28088 f. 3.
- 51 ...no ha cometido tal delito, a menos que lo haya executado bolo, y no se acuerde. AGCA A1.15 Leg. 2965 Exp. 28088 f. 4v.
- 52 ...nunca estaba ebrio, aunque algunas besses havia tomado águardiente, y q.e nunca há padecido de locura ni de ótra falta de sentidos... f. 10v.
- 53 ...pensando que era su muger tubo acto carnal con su hija de lo que se arrepintio al día siguiente. AGCA A2.2 Leg. 199 Exp. 4085 f. 4v.
- 54 Es constante, que Garcia tuvo un simple acceso con su hija; pero igualm.te lo es, q.e fué estando fuera de si, ó en terminos, q.e no sabia lo que hacia; p.r q.e se hallaba poseido de la ebriedad...cuya circunstancia es bastante en el concepto legal p.a escusarle de la pena ordinaria... AGCA A2.2 Leg. 199 Exp. 4085 f. 8.
- 55 ...quando el suceso no estava bolo p.r entero sino es medio tomado, y p.r eso se acuerda que la muchacha le dio palabra en aquel acto... f. 9v.
- 56 ...nunca pudiera haver condesendido siendo hasi que no savia por razon de su estado p.a que pudiera combidarla... f. 9.
- 57 ...la tosca educacion, no los saca y antes los establese mas, en una estulticia de prim.a orden, q.e los dispenza de la pena ordinaria de las Leyes...

cuia execpcion se prepondera en los exesos de torpeza donde la frajilid[ad] obra á proporcion de la poca resistencia q.e encuentra, respecto á la ninguna educasion, y falta de reconocim.to de la Religion y sus sagradas Leyes. f. 11-v.

- 1 ...comenzó a llamarlo carinosamente, diziendole *veni tata quitate de ay.* f. 2.
- 2 In Guatemala, civil marriage and divorce was formalized in 1836 and 1837 only to be returned to ecclesiastical jurisdiction a few months later following a rebellion that ousted the liberal government. It was not until 1877 that the state was again granted shared jurisdiction over marriage and divorce (Komisaruk 2013, 248–9).
- 3 This included the wife of an adoptive father and, presumably, the husband of an adoptive mother.

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