Chapter Two

A Brief History of Early Modern
Spain on Sodomie

"La tolerancia, la más benéfica de las virtudes.
La tolerancia, tan escasa entre nosotros". ¹

Francisco Tomás y Valiente

Like some of his fellow contemporaries in early seventeenth-century Sevilla, Fray Pedro De León believed that sodomy constituted a sin and a crime contra natura, one that spread like some contagious and pestilential plague—"la lacra" as he often stated.² In fact, wrote De León, the Lord Mayor of His Majesty's Prison in Sevilla had the "brilliant foresight to imprison the accused sodomites apart from the other men prisoners for the official feared the spread of the contamination" amongst the yet untainted prisoners.³ "Very dangerous", thought De León "to allow two young boys to lie together in bed".⁴ Evidently, the prison officials could not contain the contamination from spreading for the 'pestilential vice' respected no boundaries.

Cristóbal Chabes, another fray who also laboured at the prison, witnessed how, in that same prison, an old man named "Villarreal, a merchant, imprisoned on charges of bad debts, inserted a nautical cable—in the form of a robust man's member, measuring at least a third part of a yard in length—inside himself to emulate the same effect sodomites realised with other men".⁵ The prison authorities accused the "filthy and dishonest" Villarreal of having committed the "sin of pollution with himself" and they sentenced him to a public flogging.

The unfortunate Villarreal met his death not because he had indulged himself with the cable but after the authorities had submitted him to a prolonged session of flagellation as punishment for his depravity. As Villarreal slowly died in prison he "vomited his intestines and died in the stench of his dregs as an example of the amount of filth present in this wretched and pestilential vice".⁶
A Nasty Turn of Events

In early modern Spain, the prosecution of sodomites and the codification of *sodomie* as a 'nefarious crime and sin against nature', took a nasty turn in 1497, a marked rupture with the tolerance afforded such practices in earlier periods in the peninsula. The prosecution of sodomites continued unabated both on the peninsula and in New Spain from the latter part of the fifteenth until the nineteenth century.

In this chapter, my discussion of the *crimen* and *pecado contra natura*, itself a textual construct, offers the reader a brief history of SoS or a survey of the ever-changing discourses written and uttered by moralists, casuists, and literary writers within the rubric of Spain's evolving imperial formation, a politics imbued with a Baroque theological reformation which moralists sought to impose both in the peninsula and in New Spain. Juridico-ecclesiastical perceptions of 'manliness', a misogynist description of the 'other', xenophobia and, by the first decades of the seventeenth-century, notions of 'effeminacy', all contributed in their own way to the textual mutation of the *sodomite* and *sodomie* in the peninsula.

Isabel and Fernando, their lips still smacking from the sweet taste of reconquest and discovery, proclaimed their celebrated *Pragmática* on *sodomie* in Medina del Campo on 22 July 1497. The *Pragmática* significantly aggravated the discourses and the sentences passed against suspected sodomites. I shall return to the major points outlined by Isabel and Fernando momentarily. But first, I wish to point out that the 'Catholic Monarchs' understood themselves to be sovereigns for 'God had wished it so and as such they recognized no one superior to God'.

The *Pragmática* concerned itself not so much with the heretofore articulated social danger that marked the gravity of the *sin*; rather, the document addressed the inner guilt or culpability of such an offense with respect to God. The Catholic Monarchs argued that the "crime committed against the natural order caused particular offense to the Lord our God and caused great infamy on earth".

Furthermore, they proposed that both "secular and ecclesiastical law should join forces to punish the nefarious crime, one not worthy of name, destroyer of the natural order, thus punishable by divine justice". Sodomy, in the hearts of Isabel and Fernando, led to the "loss of one's virtuous and illustrious pedigree or man's honour". Whoever perpetrated such a 'crime & sin' not only consented to an "ignoble act" but "ceased to be noble"—a process that culminated in a "weakened" or "cowardly heart".

For Isabel and Fernando, this 'grave offense against God' produced in man the fear of torments and punishments that God could inflict upon the
place on Earth where these atrocities prevailed. Isabel and Fernando resuscitated perceptions of sodomy which had festered in different parts of the peninsula, at least on paper, during other epochs of repression, for their own political aims.

Now, There's a Novel Idea

At the end of the Visigothic period, around the year 1000, the Council of Toledo had written, "just like cleanliness of body and soul approximates man to God, on the contrary, incestuous torpezas [sodomies] distance man from him". The horrendous and detestable crime, thought the council, subjected the 'sodomically inclined' towns and villages to the kindles of fire, a fire of eternal condemnation that awaited men who fell prey to this vileness. Some secular laws during the Visigothic period also condemned and outlawed sodomy. The Fuero Juzgo, for example, could not permit the existence of this "excommunicate evil" and punished sodomy with castration. Secular authorities usually handed the sodomites over to the Bishops for incarceration and penitence.

The desire to constitute a unified Christianity in the Peninsula turned the minority Visigoths against the Jews and the sodomites. The Visigothic Liber Iudiciorum of 642-649 as well as the Council of Toledo in 693 'punished' sodomy with public castration or perpetual banishment in cases that involved the clergy. Although Boswell has identified this religious orthodoxy during the Visigothic period as the origin for the prosecution of sodomites in early modern Spain, historical data does not support his findings. In theory, the laws existed, however, in practice, authorities rarely put them to good use as did Fernando and Isabel later in the sixteenth century having linked sodomy with other perceptions of 'manliness', a category inextricable intertwined with notions of class, religion and xenophobia.

Some municipal fueros also enacted laws against sodomites and Jews. The Fuero de Sepúlveda, for example condemned Christian women found with any Jew to burn at the stake. In thirteenth-century Spain, Alfonso X, el Sabio, produced a legislative unification of municipal fueros under the heading of his Fueros Reales. With reference to sodomy, one fuero stipulated, that both accused sodomites should be publicly punished and then hung from their legs until death. The Fuero Real of 1255 proclaimed castration as well as hanging the sodomite by the feet until he died as its method of punishment. However, despite all the rhetoric on sodomie and as in the Visigothic period, authorities during this historical juncture did not resort to
the systematic prosecution of sodomites or to the use of this type of punishment.

The wave of sodomy prosecutions in the peninsula and in Hispania Nova began after 1497 when the Catholic Monarchs reappropriated the concept of divine law, a construct elaborated in the Setena Partida, to legitimize 'human' rule, much to the glee of early modern theologians, as one 'just cause' for demonising sodomy.

The Setena Partida

Chapter XXI of the thirteen century Setena Partida titled, "De los que facen pecado de luxuria contra natura" defined sodomítico as the "sin against nature and natural custom committed by men with each other". Consequently, much "harm fell to earth for sodomía gravely offended God". The first part of the Partida traced the evils of the sin to the cities of Sodom and Gommorah, two ancient cities inhabited by "evil people". "Lord our God" had so loathed the great evils of its inhabitants" that he destroyed both cities and all of its people. The sin known as sodomítico had derived from Sodoma, the place where God had realized this "marvelous deed". In a word of warning, the Partida cautioned "all men, to guard themselves against this evil for the sin gave rise to many disastrous calamities on earth such as hunger, pestilence, and torment".16

In another early reference to sodomy, Genesis XIX, in the old Biblical testament described how, "when two angels sent by Yave to Sodoma and Gomorra, two metropolises renowned for sodomy, Lot h provided shelter for them in his house. Before they went to bed, the men of Sodoma, both young and old, encircled the house and asked Loth about the men he had sheltered that tonight. "Introduce us to them," begged the men of Sodoma. The biblical response to this allusion of sodomitical behaviour depicted how Yave rained fire from the sky, destroyed the metropolises, all its habitants and all their vegetation.17 In the words of Nietzsche, calamities resurrect the notion that sins have been committed against customs.18

From its inception, Christianity had excluded the sodomites from the sacred liturgy. The Tradición Apostólica, an amalgamation of ecclesiastical dogma, excluded the sodomites and whores from the sacrament of baptism. It considered both impure subjects, related to idolatry cults. Later, ecclesiastical councils also excluded sodomites and whores from receiving the Eucharist and submitted them to severe penitence in order to rectify their sins. Even so, the old Christianity did not propose severe penalties or death for sodomites, but rather, alluded to the notion of internalizing the
concept of sin and the use of self-control as a deterrent to any external sanction.  

The second part of the Partida addressed the question of who had committed the sin sodomitico and under what circumstances. Anyone in any town could accuse another man, again only men, of having committed the sin against nature. The Partida also meted out the appropriate penalty for the 'sin'. If found guilty, both the "actor and patient" faced the capital punishment or death, although the Partida did not specify which sort of death.

The Partida pardoned those forced to commit sodomitical acts or those under the age of fourteen years-- a benevolent clause that disappeared in the following centuries. Furthermore, the death penalty also applied to men, and in this instance women who engaged in bestiality. In an effort to erase any memory of the crime, the Partida maintained that all beasts purported for said crimes should also be slaughtered.

Biblical examples of how God punished an entire city for its indulgence in the nefarious sin dominated the diabolical images written into the Partida. It offered not a symbolic reading of the bible, but rather portraits of "actual occurrences-- God had in fact destroyed a city consumed with the indulgences of sodomy". If God had destroyed Sodoma, by extension, the same fate awaited any city that harboured sodomy. Not only did it induce infamy for the accused, it also provoked great evils and pestilence upon the city that consented to its practice.

The theological construct that sodomy represented an inherent evil against 'nature', held by Castro and other moralists, also formed part of the Partida's central argument. Yet again, the Partida identified sodomy solely a domain of man, save in cases of bestiality. The Partida also provided for greater facility in the accusation of sodomites. Anyone, including those culpable of other crimes, could denounce suspected sodomites. Significantly enough, the Partida did not make any mention of, or rather remained silent on the issue of masturbation.

The mid thirteen--century Partida along with other texts of the same epoch, for example the Furs of Valencia had stipulated similar penalties for the prosecution of sodomites. However, religious intolerance had not always reigned in the peninsula.

The Infidel Moors

Under Moorish rule, the peninsula had tolerated the co-existence of at least three religious cultures-- Islamic, Judaism, and Christianity, for Muslims
regarded all deities as equals. The Koran had sanctioned polygamy and permitted men to possess four women in addition to an initial matrimonial union. Much like early modern moralists, the Koran described men as superior to women for God had prescribed in him a preeminence with which to watch over woman and provide her with his gifts. Men, in turn, expected obedience from women. The Moors considered fornication and paederasty grave faults unless sanctioned through marriage or relationships between masters and slaves. Mohammedan doctrine punished adultery and those accused of paederasty with penalties that varied from one-hundred lashes to death by stoning.  

Unlike the Bible, the Koran made no direct reference to the punishment of sodomy. Although a practice 'officially' sanctioned solely for the aristocracy, sexual relations between men functioned as complementary to other erotic relations. The Moors esteemed young men for their courage and in some regions of the peninsula, initiations of young men into adult life involved sexual relations with the patriarchs. In practice however, many sectors in Moorish culture, both young and old, adhered to the practice of sodomy. Moorish culture in the peninsula had nurtured great metropolises, with beautiful gardens, ateliers, agriculturally advanced countryside, developed an intense network of commerce, its habitants 'cosmopolitan', who possessed grand sexual, homophile tendencies and religious tolerance-- this, in strong contrast with early modern Spain.

The defeat of the Moors at Granada in 1492, their last peninsular stronghold, initiated a period of somber culture in Spain. King Fernando wrote, "after so much travail, expense, death and bloodshed, we have won for the glory of God, for the exaltation of our Holy Catholic Faith, and for the honour of the Apostolic See, this Kingdom of Granada, occupied for 780 years occupied by infidels". In 1494, Pope Alexander VI bestowed on the sovereigns the well deserved title of Los Reyes Católicos. A new culture emerged, one in which, above all, Catholicism portrayed sexual mores in light of the new religiosity. At the forefront, the Council of Trent itself obsessed with sexophobia and the concept of 'sin' envisioned a new dogma for the peninsula.

Divine Vir

Alfonso de Castro, a mid-16th century Franciscan theologian from Zamora represented a prevalent theological vision of 'human' or 'civil' law during the early modern period. Castro considered theologians and secular casuists as amiable partners within the realm of jurisprudence or in the
interpretation of laws. Castro had conceded the interpretation of human laws to the jurists however, he argued that theologians and theologians alone should dispute the substance of those secular laws for in no instance could human law exist without the a recognition of divine law. Castro and his fellow theologians defined divine law as the criteria without which one could not comprehend secular law. "The pretensions of the judge", wrote de Beauvoir "became more arrogant that those of the tyrant; for the tyrant confines himself to being himself, whereas the judge tries to erect his opinions into universal laws. His effort is based upon a lie". Nonetheless, Castro and other early modern moralists held in high esteem by the Monarchy believed in the 'universal truth'—that ever since the books of Genesis and in accordance with Scholastic theology, God had laboured and created, in six days, everything that existed in the world.

The biblical texts had defined creation, a sudden step from naught to the existence of reality, as a divine work. Catholic theology also defined the creation process as a continuous act. Creation had not come about in six days only to have suddenly stopped on the sabbath. Rather, as asserted by Castro and other early modern theologians, the creation process continued its evolution, day in and day out. Thus, 'nature' and 'man' reproduced themselves hand in hand. For Castro, the creation process had never ceased, its evolution marked by a perpetual continuum or re-juvenation. Within this notion of perpetuity, the idea of man, as an associate or collaborator of God in the creation or in the procreation of other beings, emerged. For without procreation, an activity necessary for the labour of a continuous creation, new human beings would not have existed.

The second Spanish Scholastic or the Thomistic Scholastic defined the new Vir as a collaborator of God, for in man, in his seed, in his semen, harboured the potential for new and future beings. The Spanish reform movement, or the renaissance of Thomist ideology and its version of the new man of the sixteenth century received especially strong support in Castilla. A man, described by the moralists, "created in the image of God deformed only by sin". The moralists defined both man and God as: passionate; immortal; benevolent; just; truthful; honest; trustworthy; and merciful. This christo-homocentric discourse of man formed part of Spain's vision for the early modern period—"hombre nuevo, iglesia nueva, sociedad nueva". During the first decades of the sixteenth-century, both the Crown and the Miter made use of the word 'new' in their textualised descriptions of man and society. Eventually, the early modern moralists did see fit to describe the role of woman in early modern Spain.

The theologians of the Baroque defined the labour of women in the procreation process as purely passive. Woman resembled a vase, a mere
recipient of man's seed in the procreation process. Castro and his fellow theologians viewed procreation as a 'natural' and a predetermined function of the sexual act between man and woman. The Scholastic defined coitus between man and woman as perfect, independent of whether or not, one or the other felt pleasure in the process. The fact that one derived pleasure during the sexual act, though neither necessary nor required for procreation, posed an entirely different dilemma for Spanish Scholastic. According to the Scholastic, pleasure merely functioned as the stimulus for the realization of procreation. The sexual act between man and woman could have produced satisfaction and that, defined as either good or bad, depended on the circumstances that had led to the realization of such an act. Consequently, Scholasticism invented its own list of 'lustful sins'.

Scholastic Lust

The Spanish Scholastic outlined a hierarchical list of 'lustful sins' developed by Saint Thomas as well as Fray Juan Enriquez, a seventeenth-century moralist. The lustful sins formed part of the original seven capital sins, or the sources from which all other sins originate. The early modern moralists identified the seven capital sins and their contrary virtues as,

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<tr>
<th>Capital Sins</th>
<th>Contrary Virtues</th>
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<td>Pride</td>
<td>Humility</td>
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<td>Covetousness</td>
<td>Liberality</td>
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<td>Lust</td>
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<td>Envy</td>
<td>Brotherly Love</td>
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<td>Sloth</td>
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Despite their notion of procreation as a requisite function of man to further the creation process, the Scholastics developed the hierarchy of lustful sins for they too realized that man exhibited a sexual appetite. Given any number of circumstances, man could or could not act upon his own sexual appetite. Man either dignified his collaboration with God or simply ceded to his own sexual appetite and satisfied an instinct independent of procreation and thus 'sinned'.

The following schematic description cites the most significant 'sins' from the least grave to the gravest. The Scholastic understood 'simple fornication' between a man and a woman as the least grave of the 'lustful sins'. It considered simple fornication barely a sin for it posed no obstacles to procreation, but nevertheless, classified it a 'sin', especially if both individuals could have married prior to fornication. Sex for a price did not
constitute any graver offence. Throughout the early modern period, both the Crown and the Miter looked askew at prostitution, perhaps even tolerated it and seldom felt it necessary to prosecute it as a crime. Men in positions of political power protected this profession for some felt it convenient for women to dedicate themselves to prostitution. In seventeenth-century Spain, prostitution continued to flourish as it had in the sixteenth-century.

Theologians considered the rape of a 'pure virgin' by a man as somewhat graver than fornication for the perpetrator violated the voluntary will of the maiden. In this instance, the moralists perceived woman as the one wronged or deceived. The Scholastics condemned adulterous relations between men and women as still more serious than rape for, unlike rape, the woman --in this instance labeled the unfaithful one who deceived her husband-- besmirched a man's honour but above all violated the sanctity of matrimony. In 1637 Madrid, a Royal Scrivener, acting in defence of his honour, performed the function of executioner in his home and killed his wife by garrote for he suspected her of adultery. Within the sanctity of matrimony, sexual acts --some, not all-- prevailed but beyond these boundaries, married individuals could not engage in any sort of sexual activity that did not lead to procreation.

The moralists defined incest as still more lustful than adultery having placed a special emphasis on the abuse of the parental role. Contrary to what many anthropologists believe, the moralists did not consider incest as the gravest of the lustful sins in early modern Spain. For the moralists, the sin of sacrilege seemed still graver than incest. Sex with nuns supposed an even graver sacrilege than sexual acts practised with a priest.

Lastly, the moralists defined the pecado contra natura as the gravest of the lustful sins for as a direct offence to God, this 'sin' altered the image of his creation and disturbed the 'natural' order of things. Some of the earliest constructions of sodomy as contra natura had already appeared in the New Testament in a letter Saint Paul sent to the Romans where he referred both to sodomy between men as well as between women. Lamentably, commented Paul, both men and women had abandoned the "natural use" of their prescribed order when men committed with men, and women with women, the shameful act of contra naturaleza.

The construct contra natura might have had its roots in Antiquity, but theologians resurrected the concept beginning in the thirteenth century to conceptualize acts of sodomy and it gained greater currency in the early modern period. Before the mediaeval period, theologians had not considered sodomy as a transgression against nature but rather an impurity. Spain's imperialist ambitions --control of its borders and the
acquisition of new territories in the *Indias*—fortified its desire for a new early modern *Vir* free of vice.

'Sodomía Perfecta'

*Vir* committed the 'sin against nature' having emitted his seed during any sexual act without the possibility of procreation. In its broadest interpretation, the 'nefarious sin against nature' constituted any sodomitical act that jeopardized the economy of creation and impeded the possibility of man collaborating with God. In 1550, Antonio Gómez, a casuist from Castilla had argued that man committed the 'crime and sin against nature' when he "realized carnal access not intended for natural coitus and the regeneration of its specie". Thus, this broad definition did not only refer to a purely sexual relationship between persons of the same 'sex'.

The definition also encompassed 'masturbation' and 'bestiality' as 'sins against nature' from a theological perspective. In 1587, secular authorities in Sevilla burned Alonso Pérez and "whipped" the young boy who had ejaculated or committed the 'sin of pollution' with Alonso. The young boy also served a four years sentence in the galleys.

Furthermore, both the moralists and the secular laws of the early modern period also confirmed sodomy as a crime against the state. In the introduction or the *Proemio* of the thirteenth-century *Setena Partida*, the jurist Gregorio López argued that even though in the broadest sense any 'sin' constituted a 'sin against nature', in the most peculiar sense, he considered *sodomie* as the 'proper sin against nature'.

Sodomy became known as *crimen contra naturam, peccatus, crimen nefandum, pecado nefando, crimen cometido contra orden natural, nefando pecado contra natura, el pecado, la sodomía, crimen atrocisimus*. And a sodomite referred to as, *sodomita, sodomista, sodomético, sométicos, puto, marica, maricón or bujarrón*. *Bujarrón* tended to connote a "pleasure for anal penetration" and a love for young boys.

*Vir*, of free will, committed *sodomía perfecta/perfect* sodomy having engaged another *Vir* in coitus of the arse. Yet others committed *sodomía imperfecta* if copulation between individuals of the opposite sex enjoyed coitus somewhere other than in "the natural place—*extra vas naturale*". Thus, penetration, especially penetration of any arse and the 'wasteful spillage' of semen predominated notions of early modern sodomy as sin. The Spanish state also defined sodomy as "nefarious, or indignant, lascivious, which cannot be spoken of without embarrassment, a nefarious sin called such for its lasciviousness and its obscenity".
In a figurative sense, sodomy became simply known as 'the sin'. Apparently, no other 'sin' altered the 'natural' order of creation as did the peccatus—considered a direct threat to the image of God. With the consummation of the sodomitical act, the sodomite, not only ruptured the notion that man had been conceived in God's image, but also rejected a divine invitation to collaborate in the creation. The early modern moralists re-appropriated the Lex Julia of adultery along with the works of other casuists as the pretexts for the new sodomy laws in early modern Spain.

In the early modern period lawyers, too, had defined sodomy as acts that rejected a legal order preordained by God. For the jurists, the concept of nature represented a juridical domain within its species of laws. The lawyers understood contra natura as a cosmic experience of sin: the abominable act simply ruined the order of the Universe and brought with it tragedy and death as the Siete Partidas had warned. Sodomy symbolized a grave disorder for it also rejected a matrimonial alliance.43

All of these different texts served as a point of departure for the new sodomy laws proposed by the Catholic Monarchs, subsequently by Felipe II and Felipe IV. The Fuero Real Alfonsino and the Siete Partidas both referred to sodomy—the shades of a medical echo in support of the new dogma lurching just underneath the religious constructs. Only fire, as a natural purifier of the maligne d could provide a remedy for sodomy, the unmentionable vice and the abominable crime against nature.44 Despite these earlier discourses of sodomy, mass prosecutions of sodomites did not constitute a site of repression in the peninsula until after 1497.

A Bloody 1497 Pragmática

Fernando and Isabel christened a new political-religious era of repression, one that labeled the Jews a "bloody race" and instructed both Inquisitorial and secular tribunals to simultaneously combat heresy, treason, and sodomy beginning during the latter part of the fifteenth-century. Whereas in Europe, a furor over witchcraft raged, the principal concern of the Spanish tribunals rested with heretics or the prosecution of Moors, Jews, and the sodomites. The nefarious sin became one of the most horrendous and scandalous crime to preoccupy the Monarchy in sixteenth and seventeenth-century Spain.45 The discursive descriptions of sodomy as a crime and a sin tacitly recognized it as primarily an offense against God rather than conceiving it as a danger to the Spanish 'state', or as something that could undermine the social fabric of the peninsula much like robbery or homicide.
The 1497 Pragmática concurred with the major points outlined in the Setena Partida. In part, a 'Godly fear', had prompted the Monarchs to make sodomy laws and sentences even more severe. The Monarchs interpreted the penalties stipulated for sodomy in the Setena Partida as insufficient to "extirpate the abominable error and thus felt a greater need to be even more accountable to God". Although the Pragmática affirmed the death penalty for those condemned sodomites over the age of twenty-five promulgated by the Partida, it nonetheless found it insufficient and instituted a new penalty: death by fire. Civil statutes in other peninsular provinces soon followed suit.

In the Castilian jurisdictions of Bejar, "de varón que fornicas con otro. Qui fuer preso en sodomítica pecado, quemarlo". In Baeza, "quien en pecado contra natura fuere preso sea quemado". And in Ubeda, "De pecado sodomítico. Todo aquel que en pecado contra natura fuere preso, sea quemado". "Todo aquel que sea hallado fodiendo a otro home sea quemado". At times, the threat of burning a sodomite so terrified the family of the accused that instead, they themselves administered a paste-like poison to their own relative, an early modern form of euthanasia.

The Pragmática also granted the Spanish Courts the right to confiscate the goods of any accused sodomite. In some instances, however, the courts had to return previously or haphazardly confiscated goods to their rightful owners. Mencia Velázquez, the wife of a convicted sodomite who had his goods confiscated, successfully argued that some of her husband's confiscated goods had actually pertained to her prior to the marriage and as such she rightfully deserved title to possess them. The court acknowledged the separation of goods and ruled in favor of Velázquez.

In 1503, Catalina de Belunza also appealed her case before the Chancellery in Valladolid. Earlier that year, the Attorney General in San Sebastian found Catalina and Mariche de Oyarzun guilty of sodomy and had Belunza’s goods confiscated. Catalina successfully argued that the Attorney General, an "incapable, incompetent man who suffered from a notorious madness, known to all", had acted precipitously. The Chancellery ruled in favour of Catalina and ordered the Attorney General to reinstate her goods or risk pecuniary penalties himself.

Thirdly, the Pragmática required the application of systematic torture to any man accused of the nefarious sin, including the nobility and the clergy. However, during the tenure of the Catholic Monarchs, the courts administered justice differently to nobles and the subaltern. The nobles enjoyed privileges such as special due process and usually found themselves exempted from torture except in the cases of sodomy and heresy. Commonly, nobles paid a monetary fee in exchange for freedom or
in very grave cases accepted banishment from the Kingdom as punishment for their crimes.51

In the case of the Count of Villamediana in 1622 Madrid, a secular court found him and a great number of nobles and other men of humble origin guilty of sodomy. The court executed the men of more 'humble' existence and allowed the nobles the freedom to emigrate to France or Italy.52 Whenever penal law in the Ancien Régime sought to further expand the gravity of a crime, not only did it prescribe a more severe sentence, it also instituted a series of complementary mechanisms intended to facilitate both the accusatory and the evidentiary requirements, a practice emulated in the sodomy laws of the early modern period.

As in the cases of heresy or treason, the Pragmática succeeded in minimising the evidentiary requirements necessary to justify the condemnation of an accused sodomite. Thus, the 1497 Pragmática, no longer required a sufficient amount of evidence to fully prove the consummation of sodomy. The Catholic Monarchs elevated sodomy to correspond in severity to heresy and treason for 'relaxed evidentiary requirements', the confiscation of goods and the use of torture also figured prominently in the prosecution of those cases.53 The nefarious sin represented a theme of grave concern for the Reyes Católicos-- a Monarchy obsessed with the defence of the Catholic faith, its internal cohesion and the moral orthodoxy derived therefrom. Not surprisingly, on occasions, King Fernando himself had authorized the investigation of suspected sodomites.54

Finally, in a colossal display of judicious testimony, the Catholic Monarchs did include one last and benevolent clause. The clause stipulated that heirs of accused sodomites should not suffer the infamy of an ancestor. Despite the sodomy laws stipulated by the Royal Pragmática, other Tribunals in Spain issued similar or variations of those laws and judicious treatment became a very relative term during the early modern period.

In Aragón, the Tribunals sentenced minors under the age of twenty five to death. By 1589, it became customary to apply the death penalty to minors over seventeen years of age. One year earlier, in 1588, a secular court in Sevilla sentenced Jerónimo, a minor and a slave, and his lady master to burn, having been accused of having fornicated with each other. That secular court had based its decision on Alfonso's Partida Séptima.55

During the course of the early modern period, other Spanish Monarchs drafted subsequent, less ambitious Pragmáticas that particularly related to the reinforcement of sodomy as a crime and a sin.
All the King's Men Except...

In 1592, Felipe II opted not to further aggravate the sodomy penalties; however, he did relax even further the evidentiary requirements necessary for the prosecution and sentencing of such cases. Like Isabel and Fernando before him, Felipe II also desired to "extirpate the abominable and nefarious sin against nature without allowing sodomites the possibility of avoiding prosecution for lack of evidentiary requirements or because the witnesses did not concur with each other". For Felipe II, "one witness sufficed" to warrant the condemnation of a sodomite. Moreover if the testimony of two or three witnesses did not concur with each other, even though one of them had participated in the act, the 1592 Pragmática, nonetheless, found the testimony of one 'participant' sufficient enough to condemn a sodomite.56

In 1530, the Supreme Council of the Inquisition in Aragón had set the precedent for the 'one witness' clause. It ruled that "one witness, albeit an accomplice and a minor of twenty five years of age, sufficed as proof and evidence of the crime". Only if the witness in question happened to be "the wife of the accused prisoner, could she not possess the required status to testify as a witness".57 Catalina de Belunza, one of several women accused of sodomy in early modern Spain, would later make use of this particular clause.

Women Sodomites?

The texts referred to thus far have referred exclusively to Vir, as if sodomy, in the early modern period, represented an exclusive domain of man.58 But if legal texts during the early modern period had attributed notions of sodomy exclusively to men, scholars, as far back as the thirteenth-century, had already commented about the possibility of sodomy between women. Gregorio López in his commentary titled, Omes in the Setena Partida wrote that although the law applied to "men, it included women as well" especially when one woman committed with another "coitus against nature". Thus, concluded López, "feminine sodomy was possible and should be punished".59

Despite this, reasoned López, divine or secular law did not castigate coitus between two women. Although he considered "feminine sodomy a grave sin, it could not compare to the atrocious sodomitical vice committed between men, for unlike sodomy between women, sodomy between men perturbed the natural order of things to a far greater extent". Sodomy between women did not alter the economy of the creation since there was
no possibility of coitus involving dissipated semen, and unlike sodomy between men, sodomy between women did not directly offend the image of God. Consequently, argued López, women should not have to suffer the heat of the flames but rather a less severe penalty less severe than death except when they had employed "aliquo instrumento virginitas violetur" with each other.

The Royal Prison in Sevilla, observed Fray Cristóbal Chabes, in the seventeenth-century had "punished many women for they had wanted to be more manly than nature had intended". In jail, "some women had converted themselves into roosters with the help of a baldrés or an instrument crafted from the slothful hide of tanned sheep and shaped into the form of a man's natura, which they then attached to themselves with ribbons". These women received "two hundred lashes and the court perpetually banned them from the Kingdom".

Unlike López, Antonio Gómez, another moralist of the sixteenth-century, wrote that if two women committed the crime of sodomy against nature "mediante aliquo instrumento materiali" they should be burned, as dictated in an earlier case he prosecuted that had "involved two nuns". But in the absence of an 'instrument' used for penetration, Gómez argued for a penalty less than death. Apparently, as of 1560, even the Supreme Inquisitorial Tribunal in Madrid knew of no cases that involved sodomy between women without the use of an "instrument" despite accusations to the contrary.

In the first decade of the sixteenth-century, Catalina de Belunza suffered the full wrath of the 1497 Pragmática. Not only had a secular court confiscated her goods, but it had also submitted her to torture. The Attorney General in San Sebastián had accused Catalina and Mariche of "penetrating each other like a man and a woman should, nude, in bed, touching and kissing each other, the one on top of the other's belly or paunch, a crime they had perpetrated on numerous and diverse occasions".

The Attorney General then condemned Catalina to two severe sessions of water torture. During the torture, which involved pouring jugs of water into Catalina's mouth covered by a cloth so as to produce the sensation of drowning, the Attorney General had admonished her to state the truth. Catalina withstood the water torture and did not confess under the duress. Instead, she professed her innocence and reiterated her earlier claim that the "court should rule her case null and void given the incompetence and madness of the Attorney General".

In her 1503 appeal before the Chancellery in Valladolid, Catalina had not only successfully argued for the reinstatement of her domestic goods, but she also succeeded in having the lower Court's sentence --perpetual
banishment from San Sebastián-- overturned by the High Court. After all, argued Catalina, "only one witness had testified against her, a woman at that, herself a false and compromised witness for she also found herself a defendant in the case". The High Court concurred with Catalina and acquitted her of all charges.67

Acquittal or absolution of the sin also worked in favour of 'las cañitas' [the little canes], a term of endearment by which neighbours knew Inés Santa Cruz and Catalina Ledesma in Valladolid. Again, the Chancellery in Valladolid, absolved Santa Cruz and Ledesma, both described as "whores and sodomites, a profession they executed with the use of sugar cane in the form of a virile member".68 The case against the eighty-year old Inés Santa Cruz and Catalina Ledesma in her mid-thirties, registered in 1603, represents a rare complete proceso that involved sodomy between women in the early modern period still kept in Spanish historical archives.

The moralists' polisemymthic vision of sodomy and its multiplicity of signifiers meant that, in the rhetoric of the moralists, both man and woman could commit sodomy. Still, "although a crime", many moralists considered sodomy between women as "inauthentic, imperfect, devoid of scattered or wasted semen" and the courts usually deferred these cases and their sentences to the local Bishops.69 The Spanish Courts did not always profess such leniency in other cases that involved variations of sodomie.

Disorderly Carnal Access

A 1544 confessional manual condemned sodomy as an insatiable carnal appetite for "sexo outside the ordinary vase". The perpetrator should be condemned without remission for the "abominable handling of the virile member".70 Man and woman, wrote Fray Bartolomé de Medina, committed sodomy when, during the sexual act, "the woman situated herself in the superior position and the husband in the inferior, a position outside the natural order of things". For Medina, man on his back during intercourse constituted an "anti-natural and disorderly" carnal act.71

Man and woman, wrote the moralist López could also commit the nefarious sin, especially when the sexual act had not lead to procreation.72 Antonio Gómez had concurred with López: men who committed the nefarious sin with women should also be punished. Gómez cited a case that involved a husband who had attempted to penetrate his wife with an object. She refused and denounced him before Gómez. Since the husband had not achieved his objective, the court condemned him only to lashes and banished him from the province.
Notwithstanding the case before him, Gómez re-directed his gaze at men sodomites. But, "if a man had carnal access to another man", argued Gómez, they committed the "abominable and detestable crime of sodomy against nature, the gravest of all crimes, graver still than heresy, and as such the maximum offence to God and nature". In this scenario, Gómez advocated the death penalty and confiscation of all goods for both the "agent and patient". Yet, on other occasions, both the courts and the clergy turned a blind eye toward other types of 'gender transgressions' in the peninsula.

Magdalena Muñoz —Half Nun, Half Man— Another Saucy Tale

Other saucy tales of the early modern period sometimes did not draw the ire of local officials as illustrated by the condition of a nun named Magdalena Muñoz in 1617. Fray Agustín de Torres described Magdalena as a "manly woman", one who could "hold a sword in one hand and capable of hurling an arquebus with the other". In 1605, Magdalena, a native of Sabiote, took up residence with a group of nuns in the Coronada convent of Ubeda located within the jurisdiction of Castilla. Shortly thereafter, a group of men from Sabiote approached the Prioress and inquired, "how she could have allowed a man into the convent"? Upon learning of the news, "the nuns, just like women who had little to occupy themselves with, in a fit of frenzy, caused such a turmoil such that it obligated the Prioress to examine Magdalena".

During the twelve years that Magdalena laboured at the convent, the nuns had on many occasions witnessed to their own satisfaction their sister's 'gender' although "she had possessed the strength, disposition, and the condition of a man". In 1617, Magdalena herself had summoned Fray Agustín to the convent. As the two sat alone in a room, Magdalena informed Fray Agustín that "an accident of nature had converted her into a man". About eight or nine days earlier, the convent had received a bulk of wheat that weighed 100 fanegas or the equivalent of 7480 kilos.

Magdalena measured, divided, and stored all the wheat in one afternoon. After having toiled that afternoon, Magdalena felt much pain between both her swollen thighs. "Tormented", she understood herself broken after such effort, but she "dared not utter a word for she had not wanted a doctor to see her and render her a broken woman". Three days later, the inflammation had subsided and in its place, a "man's natura had sprouted".
Fray Agustín demanded that Magdalena verify the truth and as she revealed herself, he confirmed, "her as much a man as the next". In order to avoid another upheaval at the convent, Fray Agustín instructed Magdalena to request an audience with the Holy See and to inform him that her father had actually forced and threatened her to take her vows as a nun but that she had never complied with said request.

After which, Fray Agustín instructed the Prioress to lock up Magdalena in a cell. He instructed "six nuns, the oldest and most devoutly religious, to enter the cell together, only when they brought Magdalena her meals". Fray Agustín then summoned the Prior of Baeza to the convent and together they performed a second examination of Magdalena. The clerics "saw it" with their "our eyes and they felt it" with their own hands. In Magdalena, they had "witnessed and touched a perfect man and his natura". A hole, the size of a pine nut, just above the place where "women supposedly have their sexo" was all that remained as the only sign of Magdalena's 'womanness'. Her "new man's natura had grown in that same spot".

Magdalena, "a quiet woman" earlier in life, "had said nothing about the small hole", instead, she had "decided to become a nun". The clerics deduced that the small opening had functioned "like the root or source of a man's urinary tract, its member internally lodged within the walls of the body". Despite her thirty-four years of age, Magdalena's "chest looked as flat as a board". Magdalena had never menstruated. Regularly, "she took to the whip" and "practised self-flagellation until she bled". She would then "smear the blood on her clothing" and in this way "exhibited her cycles of menstruation" to the other nuns. Magdalena self-flagellated to avoid being known as a "marimacho" or 'manly woman' by the nuns.

Six days after the growth of her "member", Magdalena's voice also began to "thicken and her upper lip began to darken with hair". Fray Agustín then called on Magdalena's father and related the story of Magadalena's member to him. The 'poor man' thought he "would die of fright". Finally, one night, Fray Agustín accompanied Magdalena's father to the convent and "dressed Magdalena in a colourful tunic and veil and turned her over to the custody of her father". The father felt much happiness for, as a "rich man without heirs, he now found himself with a very manly son and an eligible bachelor at that". Magdalena, too, "felt content after what felt like twelve years in a prison". "Liberty for Magdalena", wrote Fray Agustín "could be sweet for she now realized herself a manly woman, a naturalness that no other higher being than God could have produced". 76

Unfortunately, not all those who sought liberty in early modern Spain could readily attain it for the courts persisted in selectively prosecuting sodomites throughout the peninsula.
Reflections of an Epoch and its Tribunals

By the end of the seventeenth-century, a mass of erotic expressions had fallen prey to the juridical-religious concept of the abominable defined as bloody relationships that transcended the divine order of the world and announced the presence of the devil in apocalyptic forms. Rape or adultery provoked discussion amongst the professed of the new morality for they altered the orderly sequence of a system and the transmission of goods. Nevertheless, the moralists considered sodomy, bestiality, and mollities [masturbation] even graver lustful sins for they so perturbed the natural order of things.

The reader will recall that at least two types of tribunals, secular and ecclesiastical, prosecuted sodomites between the fifteenth and the eighteenth centuries in Spain and in New Spain. In Castilla secular tribunals prosecuted sodomites while in Aragón, sodomy prosecutions fell under the jurisdiction of the Inquisitorial Tribunal.

The Spanish Inquisition held jurisdiction over sodomy cases in the Kingdom of Aragón which included the tribunals of Valencia, Barcelona, Zaragoza, and Palma de Mallorca. Secular tribunals prosecuted sodomites in Madrid and Sevilla, two important metropolises in the Kingdom of Castilla. Over the course of the colonial period, both secular and ecclesiastical courts held jurisdiction over sodomy cases and other "sexual crimes" in the Tribunals of New Spain.

The multiplicity of jurisdictions often became blurred and varied from one historical moment to another. In Castilla, the Royal Courts, and not the Inquisition prosecuted sodomites. If the Inquisition in Castilla prosecuted some sodomites it probably did so not as a result of the crime itself but rather because the accused had argued that sodomy did not constitute a sin, and that heretical affirmation did concern the Inquisitorial Tribunals. In 1505, the Inquisitorial Tribunal assumed jurisdiction over sodomy cases in Aragón. But in 1509 the Supreme Court in Valladolid rejected the Tribunal's jurisdiction over the sodomy cases. Finally, in 1524 Clemente VII granted the tribunal the powers to proceed against suspected sodomites. That same year, the Tribunal prosecuted its first sodomy cases in Aragón.

García Carcel and Carrasco have documented the following information. Between 1540 and 1700, the Inquisitorial Tribunal prosecuted 380 sodomy cases in Valencia, another 791 in Zaragoza, 453 in Barcelona. In Valencia, the Tribunal sentenced 37 men to burn between 1566-1775, the
vast majority between 1616 and 1630 right in the midst of the Counter Reformation.\textsuperscript{83}

The Tribunals did not condemn any sodomites to burn at the stake after 1630; instead it condemned them to the gallows, administered lashes or perpetual banishment from the Kingdom. In Castilla this shift occurred from the last decade of the XVII century.\textsuperscript{84} By contrast, the secular tribunals in Sevilla and Granada along with the Tribunal of the Casa de la Contratación prosecuted 175 sodomy cases between 1560 and 1699 in which they sentenced some fifty sodomites to burn at the stake. Early modern moralists also believed that sodomy naturally led to other maledictions.

Vázquez García & Moreno Mengibar have suggested that the acerbic Catholicism of the early modern period suddenly found itself confronted with a different hedonistic sentiment, a new libertinism had emerged, a Renaissance that opposed the Catholic God, his repression and his authoritative discourse. Up until the second half of the fifteenth-century, death, wrote Foucault, reigned as the principal theme of the day.

But the subaltern had rebelled against the Thomist notion of sin. The idea of a hierarchy of sinners, above all sexual malefactors, had in fact evolved to offer man a type of renovated paradise. A paradise where man would not experience suffering nor fear and where sexuality triumphed in a purely hedonistic sense over the aseptic mode that Catholicism attempted to impose.\textsuperscript{85}

For moralists, the ethos of this period had recuperated Greek homophilic culture. Notions of beauty reemerged as the supreme being and the search for pleasure replaced the internalization of sin or guilt as one principal objective during the Italian Renaissance. The new humanism, its pansexualism embodied a rejuvenated homophilia and homoeroticism.

Despite the penalties for committing the nefarious sin—death by strangulation, burning, or drowning in a canal—sodomy to drive down prostitution by women, for example, flourished in Renaissance Italy. In Venice, the Government exhorted the whores to exhibit themselves more in order to diminish the Venetians' appetite for man whores and young boys. In Germany however, Martin Luther scandalized by the Romanesque libertines proposed instead a restoration of the faith.

Ascetic notions of man as a condemned creature who could only achieve divine grace and purification by way of a rigorous ascit, began to reemerge. Calvinist doctrine, too, contributed to this new reign of terror in early modern Europe. The dogmatic rhetoric resulted in the Religious War fought in the name of the Reformation. Both secular and ecclesiastical authorities heeded the call to continue the extermination of its dissidents: witches, sodomites and heretics.\textsuperscript{86}
Begets the Begotten

Some moralists believed that some lustful acts begat others. Lust, in their eyes, was the capital vice that bred many others. From the beginning of the seventeenth century, the moralists based their attempts to close public brothels on this principle of engendering: fornication with whores did not extinguish the flames of passion or greater evils but rather all the contrary, it ignited the flames and served to propitiate these desires. Others argued in favor of the brothel closures enumerating the extraordinary frequency with which sodomitical acts contra natura occurred in these houses of pleasure. The whores, considered skillful masters of the art of hell, had taught the boys to accustom themselves to the nefarious sin. This "vile and tyrannical love, so nurtured the condition of those it affected that they eventually became devotees of the act". "Both tamed or wild animals could live the entire year in peace", one aphorism held, but, "as soon as the rutting season began they tore each other apart".

Conceptualized as a malicious act, the quality of the nefarious sin had differed from those of other transgressions, such as rape or adultery which also tainted the virtue of man's honour. Despite the established differences between these transgressions that affected the familial, in the case of adultery, or the cosmic order as in the case of sodomy, the courts considered these sins ruptures of a neatly prescribed alliance to the patriarch, on the one hand, and the holy father on the other. The early modern moralists believed that blood or purity thereof, functioned as the common element between man and God, its fluidity thwarted by the adulterous act against the honour of the family or interrupted by the sodomitical act.

Ruptures in the notion of 'man as a collaborator of God' emerged during the seventeenth-century and bestiality, an act complicit with the diabolical, disappeared in the mid sixteenth century from the schema of crimes sketched by the Inquisition in Aragón. The Inquisition, argued Carrasco, then conceptualized sodomy less as a taboo but rather as an error of judgment. The sodomitical act had evolved to represent an error of reason or of the intellect.

During the latter part of the seventeenth-century, sodomy was no longer an act condemnable in and of itself but became the external sign of an interior disorder and morality of the individual, an alteration of his economy of passions. In perpetuating the act of sodomy, the sodomite "erroneously judged the natural laws of God". As a falsifier of said dogma, the sodomite like the heretic, had lived a depraved life as signs of an
erroneous faith; consequently both secular and ecclesiastical tribunals had prosecuted the "infamous infernal trio composed of heretics, witches and sodomites".  

Even so, the strict norms of the Catholic Church often collided with some commonly held notions of life. The subaltern sometimes voiced their yearning for greater tolerance than that predicated by the ecclesiastical mob. Alfonso Gil, a Portuguese labourer, in 1605, "inebriated while working in the countryside" informed his fellow companions that he thought it "not a sin to do it to a man". His companions disagreed for they considered "it a bad thing and a grave concern for the Inquisition". "In my breeches", boasted Gil, "now that's an Inquisition"! When Alonso appeared before the Inquisitorial Tribunal, he explained that he had uttered those words because he had "drunk too much in the hot sun". The Tribunal in Granada sentenced him to attend one mass and banished him from the province for one year. Baltasar de los Reyes, for his part, felt that "to eat, to drink, and to fornicate" did not constitute sins. Martin Santiago also did not consider that "fornication with a whore" constituted a sin. Whores existed, rationalized Santiago, "because men should not have carnal access to other men or beasts". Sánchez Ortega has suggested that the sexual relations of the subaltern during the early modern period varied much more than permitted or acknowledged by the established norms of Catholicism. But, theologians and other writers alike did their utmost to nurture their textual constructs of new early modern Spanish Vir.

El Varón Perfecto

In addition to the theological textual constructs of early modern Vir in Spain, lawyers and writers alike put forth other notions associated with 'manliness'. In his 1487 *Doctrinal de los caballeros*, Alonso de Cartagena, then the Bishop of Burgos, identified "good customs, respect for the law, women, friendship, war and love" as the "proper attitudes and conduct which all real gentlemen should observe". Cartagena applauded the traditional customs of Castilian society, an old yet stable model of mores that offered society a sense of security in all its ritualistic and symbolic context. This mood, juxtaposed with the "emptiness and the uncertainty of modernity" held great appeal for Cartagena and his fellow cohorts. For them, the perfect Christian gentleman defended venerated religious customs and took refuge in the past to inform his behaviour in contemporary society. The old modes of correct behaviour that attempted to sketch an image of the perfect Christian gentleman affected all levels of the society.
In his *Manual del Caballero Cristiano*, Erasmus of Rotterdam had also proposed a series of proper forms of behaviour for Christian gentlemen should they have wished, in good faith, to reach the "labyrinth" of life. First and foremost, man had to renounce the sins of the flesh and avoid fostering a love for things contrary to established dogma. One had to tame the flesh so as not to be led astray. The new morality extended to dress and the characterization of both men and women, according to class, ethnicity or religious beliefs.

Medical doctors and other writers soon joined the ranks of theologians in their condemnation of sodomy. Dr. Francisco López de Villalobos proposed a series of punishments, written in verse, in order to remedy their "sufferance". López de Villalobos proposed to "cure" those who indulged in the *sin* with hunger, cold, and lashes Writers of fiction during the early modern period also mimicked the clichés of the Catholic morality on 'manliness'. Whether dogmatic juridical sentences, sermons in Latin, or the prescribed catechism, they all found their way into the pages of satire or novels. What had begun as a strict moral dogma transformed itself, in part, due to the fiction or the literary genre of the epoch. The following examples illustrate how images of the perfect Christian gentleman crystallized in different literary genres.

The 'noble gentleman' portrayed by Baltasar de Castiglione, in *El cortesano*, a preferred author of Carlos I, fit the profile of that perfect Christian gentleman for his "body and soul" emulated "purity of customs". I have included a copy of the book's original cover in the illustrations which precede the appendices. In *El cavallero perfecto*, another eloquent testimonial of the sixteenth century, Salas Barbadillo, depicted man's behaviour and life blessed with "Christian zeal and heroic virtues".

Salas Barbadillo portrayed Don Alonso, the protagonist of the novel, as a gentleman beyond reproach, passionate, yet, a man who knew when to repent after having sinned. Don Alonso, the perfect gentleman, defended heroic virtues with his deeds and his spoken words and as such positioned himself as a moral and a political example to his society-- in short, a dignified emulation of the nobles and the perfection of their customs.

The mystical poet Fray Antonio Panés in his *Calidades del varón perfecto* dedicated the following allegorical verse to his image of the gallant:

> Arbol el justo a de ser,  
> que se arraigue en humildad,  
> que crezca con caridad,  
> y dure en el padecer.
Truisms

Indeed, in many instances, writers had re-appropriated the phrases and the ideas uttered by the fathers of the church as the source of their textual images and constructs. The moralists of the seventeenth-century had frequently portrayed Vir as a "furious animal, vengeful and lustful, one that needed to be tamed in order to create a perfect animal of Christian virtues" as alluded to by the following aphorisms written by the fathers of the church during the early modern period.

"El hombre es el más noble, y valiente animal de cuantos nuestra madre naturaleza crio: y así se dice animal perfecto, porque le crio Dios a su divino retrato, y figura". [Man is the most noble and valiant animal created by mother nature, as such a perfect animal, created in the divine image and figure of God.]

"La dignidad del hombre es muy grade, solo en ser llamado amigo de Dios". [The dignity of man is so enhanced by just being considered a friend of God.]

"El cuerpo del hombre es el mayor enemigo que tiene, y el mayor traidor que jamás se vio, pues anda buscando la muerte a quien le da de comer". [The body of man is his capital enemy and the worst traitor ever for death seeks those who wish to feed it]

"Aunque los hombres puedan estar sin pecado, ninguno hay esté sin el". [Although men can exist without sin, no man exists without it.]

The moralists made use of pessimism, fatalism, and other Christian constructs such as sin, punishment, guilt, or a disdain for the body, all rhetorical devices used to reinforce the image of the perfect gentleman, a recurring theme in their sermons or homilies. As a symbol of honour, strength, the seducer and owner of his wife, the loyal vassal possessed a virile bravado, one that predisposed him to enlist and fight multiple wars for his prince. This pious gentleman represented the ideal master of his house, one that emulated the king of creation in defense of Catholicism and its venerable customs. With the perfect gallant in hand, the early modern moralists also attempted to nurture the image of woman.

Woman, a Thorny Paradox

On the one hand, the moralists recognized the need for women in the procreation process and the continuum of creation. Yet, they too recognized her as sometimes cunning, untrustworthy, perhaps even evil and thus confined her to the three basic functions described below in order to justify
her submission to man. The moralists fashioned aphorisms for women as well:

"En la vida de la mujer, tres salidas ha de hacer: bautismo, casamiento y sepultura".  
[Woman has but three functions in life: baptism, marriage and the grave.]

"Al más discreto varón, sola una mujer, le echa a perder".  
[Only one woman suffices to spoil the most discrete gentleman.]

"De la mar la sal, de la mujer mucho mal".  
[From the sea the salt, from woman much harm.]

"Dile que es hermosa, y tornarse ha loca".  
[Tell her she is beautiful and mad she becomes.]

But, the moralists also drafted their version of the ideal of woman, an icon cast in the incarnation of the Virgin Mary whose semblance above all embodied "purity, honesty, good will". In part, the early modern moralists appropriated their misogynist descriptions based on Instrucción de la mujer christiana, written by the Valencian pedagogue Louis Vivés in 1523. Vivés identified "virginity, beauty, abstinence, matrimonial duties" as the summits of women's virtues. He prescribed an entire program of proper behavior and garb for young ladies, virgins, adolescent women, married women, and finally widows. The early modern moralists labeled the transgression of these rigid roles as an ill against the institutions of the family, other social groups or even Catholicism. Sanctions levied against the transgressors varied from admonishments, corporal punishment, penitence or instilling sentiments of guilt for every age group.

During the early modern period, a man disposed of different occupational roles— a prince, a military function, an artisan, a humanist, a merchant, or even a clergyman. Women on the other hand, had fewer options to exercise since Vivés and other moralists continued to relegate them to the roles of "mothers, daughters, widows, virgins or harlots, saints or witches". These identities derived solely from their sexual status and, in many instances, inhibited many women from assuming other desired identities.

Saint Augustin had long before planted these seeds of disdain and distrust for women when he advised his brothers to speak to them with "severity" and as little as possible. One could not even trust the most virtuous of women, for, concluded Augustin, "the greater the virtuosity, the greater their inclination to deceive, for lurking underneath their sweet word hides a virus of great lasciviousness".

The old stereotypes of woman put forward by the fathers of the church combined both the myth of paradise and the concept of original sin, where
woman had displayed a fundamental role—an amalgamation of perversity, deceit and the treason of God's confidence in the first parents. Theologians had constructed a diabolical image of woman for her suspected role in the loss of paradise. After all, as Saint Jerónimo so eloquently stated, "if woman had caused man's fall in paradise", it should come as no surprise that she could also "seduce those not found in paradise". Furthermore, warned Jerónimo, "never allow yourself to be alone with a woman", rather always be in the company of a "witness".111

Still later, Saint Tomás of Aquinas, in his *De periculo familiaritatis dominarum, vel mulierum or The terrible risk of familiarizing with women and its pernicious consequences*, argued that "God had created woman more imperfect than man and thus obligated her to obey man for he naturally possessed an abundance of sense and reason".112 Centuries after Aquinas, Fray Pedro de León proposed even more delirious notions of man and of sodomy in early modern Spain. The royal historiographers of the early modern period would later employ similar arguments to justify Spain's domination of the *Indias*.

**DeLeón on Sevilla and Granada**

In 1981, a manuscript written by Fray Pedro de León, that had remained hidden in the Jesuits archives in Granada since 1619, finally found its way into the hands of other archivists and historians.113 In the manuscript de León described the emergence of Granada and Sevilla as the two most important metropolises of Andalusia in the early modern period and depicted Spain's years of "grandeur and misery, of victory and defeats, and of its triumphs and pains". De León witnessed the revolt of the Moors in Granada in 1568 as well as their tragic massacre on Christmas night of that year.

Later, he recorded "Spain's struggle against the Turks in 1571, its battles with Portugal and finally the expulsion of the Moors in 1609". The Jesuit fray had witnessed Spain both at the forefront of Christianity and during its final chapter of expansionism in early modern history. He too came to see how, in 1587, Drake defeated the Spanish Armada in Cádiz. De León also met Cervantes during their studies in Sevilla and later met up with him again at the beginning of the seventeenth century, at the *Cárcel Real de Sevilla*, where the cleric served as Chaplain from 1578 until 1616.

Most importantly, there he compiled one of the most interesting, sections of his manuscript entitled *Apéndice de los Ajusticiados* or an appendix of those adjudicated by the secular High Court in Sevilla. In the
Apéndice, De León recorded the names of secular authorities, descriptions of the juridical sentences and their executions, the names of the accused, some more prominent than others, as well as the names of those who pertained to the clergy. He elaborated in great detail on the nature of the crimes committed and the scandalous frequency with which the authorities had invoked the death penalty. However, De León also recorded his ideas, his sermons, his perceptions about the world, about man, about sodomy and certainly about sodomites. "I do not offer the manuscript," wrote De León so that "from it one may draw conclusions", but rather the fray chose to provide one with a "glimpse" of the society he had textually represented.  

His Majesty's Royal Prison

In part two of the manuscript as well as in the Apéndice, De León recorded his experiences in the "Royal Prison of Sevilla, its numerous cells, galleries, and dungeons, known as 'el miserable', 'the plague' or simply as the prison". For Fray Cristóbal de Chabes, the prison resembled the "worst cage on earth" or a setting that "harboured sickness, pain, torture, vengeance, exploitation", in short, "no justice".

Cervantes described the prison as the place where all "miserable sound makes its bed". The Royal Prison represented a sort of historical realism, one of the principal themes echoed in Cervantes' prologue to El Quixote.

Mateo Aleman, a 'picaro' philosopher of the seventeenth-century considered the prison as the "stopping place for the fool hearted, a forced punishment, a slow repentance, friendships, vengeance, a confused republic, a brief ailment, a prolonged death, a port of sighs, a valley of tears, a house of the mad, where one cries out aloud and alone looking after his own madness".

At any one time the Royal Prison accommodated more than 1800 men and women, some taken there as prisoners from New Spain by officials of the Casa de la Contratación. On any given night and with the consent of the authorities, an additional one hundred fifty women spent the night with the prisoners.

De León recorded the plight of the many prisoners condemned to death for robbery, murder, or sodomy. These men related their histories to De León as he sat up with them the night before they were due to die or indeed as he accompanied them to the place of execution. Certainly, the cleric felt "hurt" at the sight of the "lice and the misery" suffered by the prisoners.

Between 1578 and 1616, the secular authorities in Sevilla sentenced some 309 individual to death. At least 48 of those 309 victims were burned for
sodomy. Additionally, the Tribunal of the Casa de la Contratación sentenced another ten to burn at the stake. About 15,000 spectators usually attended the public spectacles described by De León. "For the first time in 1578", wrote De León, some eighty years after the celebrated 1497 Pragmática, "Sevillian officials had employed fire as an element of the spectacle".

The officials had tortured eighteen year old Pedro de Multes, "with fire, his hands and arms burned, until he confessed to having committed the crime". A magistrate had then condemned him to death. As the young Multes burned, "his many tears and uncontrollable sobs caused much pity amongst the spectators who had witnessed the cruelty that induced the young man to shed many tears and display his sentiments".120

Despite the tears, De León reminded those congregated "that the gravest sinners are not those burned to death but rather those yet to be arrested".121

'La Lacra', An Import from Abroad

But, unlike his predecessors, De León began to offer other explanations for the lacra --an infestation, disease, a plague-- a construction he often used when he referred to sodomy. La lacra came from abroad, from others, from non-Spaniards, claimed the cleric. Others on the peninsula agreed. "Foreigners," wrote the sixteenth-century historian Gaspar Escolano, had introduced sodomy into Valencia.122

In another analogy, early modern writers frequently associated the sodomite with the condition of the "foreigner" or a sin of the "other". "Foreigners" had introduced the sin to the city so that the city could then receive divine punishment.123 Wanda echoed a similar sort of 'sado-masochism' when she remarked to Severin, "I hope that my whip has cured you, that the treatment, cruel though it was, has proved effective".124

With respect to sodomy, divine punishment reconciled the city with God by restoring an alliance between the two, a relapse that required the sin to be purged by fire, a symbolic punishment that liberated the maligne imprisoned within the confines of the sodomite.125 Writers have often represented Moriscos in the literature as consummate practitioners of sodomy.126

Early modern theologians had claimed a cause and effect relationship between calamities, such as hunger or plagues, and the existence of sodomites in those cities or towns. De León thought that foreigners imported the 'sin' from without. The vast literature of the early modern period also attributed the importation of the sin to foreigners, especially to the influence of the Turks, the Moors or the Italians.127
Mateo Alemán in his, Guzmán de Alfarache, wrote that one could find "sodomy, a bestial brutality, in abundance throughout Italy and the Levant". Foreigners comprised the majority category of those sodomites condemned in Valencia as well as in Sevilla. And in the remainder of the peninsula, foreigners, especially the Portuguese, provoked major suspicions and bore the brunt of the repression administered by the Inquisitorial tribunals of the Ancien Régime. By contrast, in the Dutch Republic, observers believed that Spanish foreign diplomats gathered in Utrecht for the peace talks to end the War of the Spanish Succession had introduced sodomy into the Netherlands in 1713, a vice also considered particularly Catholic and Italian.

In his sermons and in his writings, De León, lent prudence to an unyielding Spanish xenophobia during the early modern period. In 1616, the Sevillian authorities burned a slave and Hamete, a Turk, also known as Juan who, stated De León, "should no longer be referred to by his Moorish name for he died like a Christian". Hamete had meet a young boy of nine or ten years in the meadows and had promised him a number of gifts.

The young boy, "fooled", continued into the meadows with Hamete and there the "Turk forced himself onto the boy and aggressively attempted to penetrate him". The boy had cried out, "God help me"! Alas, Hamete had not "completed the sodomitical act" save to have "emitted his desire between the boy's little legs". The boy, "crack brained, escaped and appeared" before the Lord Mayor, "crying and dripping blood". Upon his apprehension, Hamete readily confessed his 'crime' to the alcalde in the presence of the scrivener. He told the officials of another man who had paid him eight ducados for each time Hamete had penetrated him.

That 'honourable gentleman' had asked Hamete to secure "a pair of potent Turks or Moors with big natural members" to whom "he had paid one real de ocho to each for every time they produced the desired effect on him". The secular officials had since burnt the two Turks and had charged the 'honourable gentleman' in absentia, for sodomy. The 'gentleman' had long before fled for Italy. Other very "valiant Spanish boys" customarily sought refuge in Italy.

In the minds of some Spaniards, Italy and the Italians reigned as the most notorious sodomites. So much so that one day that same year, when a student went to have his hair cut at a barbershop owned by an Italian, the young man arrived wearing his own "remedy for the cure" of the sin. Secular authorities in Madrid had just burnt another Italian barber for sodomy. When the student entered the barbershop, he took off his "habit or hood and revealed a large basket tightly fitted to his buttocks".
"Why the great basket", asked the Italian barber? Given that "dangerous times abound" and the 'nationness' of the "Italian" barber, the student felt it "prudent to wear the basket as a preventive measure". The response so offended the barber that a fight ensued between the two and it led to the arrest of both men. That afternoon, the authorities released the student, who left the commissary "still wearing his defence against the nefarious".¹³³

Don't Dress Like Them for Butterflies Always Burn

De León identified other attributes that he associated with sodomy. The wearing of non-traditional dress and attire, especially new fashion from Italy, or even a young man's "beauty", proposed De León, also predisposed one to fall victim to the "pestilent vice". In 1585, when secular officials in Sevilla burned sodomites Salvador Martín, Alonso Sánchez and Diego Maldonado, a native of Granada and "member of a well-to-do family", De León rationalized that Maldonado, in all probability, had "infected himself with the lacra in Italy".

Before his arrest, Maldonado had traveled to Italy to purchase the latest in Italian apparel. Not only should "honourable men flee from these wild beasts", but men should also guard against not resembling the likes of Maldonado and others whose "powdered, painted faces and dress" caused the cleric great consternation.¹³⁴ Early modern Vir, in the words of De León should instead strive to preserve their "honra de caballero".¹³⁵

"Some of you do not partake of the vice", acknowledged De León in one sermon to the men in attendance, but nonetheless remarked that "some of you dress as if you do" and thus "could be mistaken for one of them". De León believed that "honourable men had no reason to dress, or to wear hosiery or shoes, or curl one's hair, in a manner that ventured outside the common, ordinary dress of honourable men". "If you are not one of them then don't dress like them", pleaded De León for "if you do not sell wine then do not exhibit a tavern bush on your door".

Young men's dress, especially, should not "attract attention, nor invite comment"; rather it should emulate the "somber common ways of honourable men's sons". "Why do they venture outside the common custom and wear different shoes or curled hair?" pondered the cleric. "Eyes wandered" and even one's "thoughts and discourses went astray at the sight of those men walking with such affected delicacy, such that they resembled whores". When the Jewish people saw John the Baptist in a different habit, the priests asked him "tu quis es"? Likewise, surmised De León one could
ask of those who wear "rich and splendid dress affected with such daintiness, "*tu quis es"*?"\(^{136}\)

Sodomites, "who did not amend themselves, driven by the sin, just like butterflies that fly back and forth, closer and closer to the fire, will eventually end up burned" professed the fray. "A butterfly" fluttering close to the flames of an open fire, explained De León "at first burned only a wing and then another little piece, until finally it fully burned". Sodomites, warned De León, who "trade in this type of merchandise sully their honour and finally ended up in the fire".\(^{137}\)

**Afternoon Tea in the Meadows**

Our affluent fellow Maldonado "had always surrounded himself with spruced up genteel young men, inviting many of them over for afternoon luncheon". Often, the men would set off together to an orchard in the meadows of the Sevillian countryside known as the *Huerta del Rey*, a "popular refuge for those seeking pleasure in the most compromising clandestine social actions of the sixteenth-century".\(^{138}\) On one occasion, Maldonado invited a young boy to the meadows.

The young boy, who suspected Maldonado's bad intentions, alerted the secular authorities about the planned reception. As part of their counter-security, the authorities went to the meadows and hid between the trees in the orchard. While under a fig tree, eating figs, Maldonado began "uttering tender and amorous words, he simply lost his composure, then attempted to kiss and forced himself onto the young boy". The young boy cried out, "I'm being forced upon"! The authorities jumped out from behind the trees and arrested a fig-eating Maldonado.

In his deposition before the secular authorities, Maldonado denounced many other "young, well-dressed and beautiful boys" as sodomites. Amongst these, one in particular, captured De León's imagination-- "a very handsome, a very beautiful, and a very well-dressed boy, named Francisco Galindo, son of a silk vendor, who, given his exquisite dress, looked more like a woman than a man". Women in Sevilla had often murmured to one another that "the attire worn by Galindo had been given to him by those who used him for their own pleasure".

In these instances of 'pleasure', Galindo had always assumed the "role of woman or patient, a very coarse thread indeed and more dangerous than that of silk", unequivocally confirmed De León. "Instead of learning his father's trade", that of silk weaving, Galindo had chosen that of a "whore" and had, like other sodomites, "preferred to associate himself with fire".
"The devil had arrived", voiced an alarmed De León from his pulpit. Indeed these demons had "fanned the flames of sensuality and the pleasures of the flesh that kindled a fire that would eventually consume" such men.139

Oh No! Not the Clergy, Not the Nobles!

The 'beautiful Galindo' denounced many other "young gentlemen of Sevilla and some ecclesiastics" as sodomites. De León "purposely" kept these last procesos out of public view for the "ecclesiastics had their own superiors responsible for their punishment, if found guilty". The cleric often "instructed the young boys not to implicate men of the religious cloth in their confessions", much to the "gratefulness" of his "religious superiors and other ecclesiastics".140 Kamen has argued that the Spanish Inquisition acted more benevolently than secular courts in their application of the death penalty, especially in cases that involved the clergy. "As a rule", argued Kamen the Inquisition never burnt the clergy".141

However, the benevolence of the Inquisition with respect to the clergy did not reflect a humane politics of tolerance but rather the politics of power and the inherent contradictions of religious discourses. Nonetheless, some of the most celebrated clergy of the epoch in Sevilla could not escape prosecution by the secular High Court.

De León cited the cases of one Fray Pascual Jaime and that of his "accomplice", a very young and very handsome boy from Vizcaya named Francisco Legazoteca", both burned by the secular high court in Sevilla. The burning of the boy had caused "so much pity and compassion amongst the crowd for "he wept like a child and cried out that the cleric had bribed him with garb and splendid apparel" and that he, "like a fool, consented" to the actions of Pascual.

Pascual Jaime, always "gracefully dressed, curiously enough, wore a painted face" and seldom went without "the company of well-dressed young boys with painted faces". Some young boys had presented Pascual with an uncompromising fetish; "he took them home, cleaned them up and dressed them in rich splendid dress all at his own cost". Pascual had spent forty eight of his fifty six years "plagued with the vice". "Be weary", cautioned De León, at the amount of "harm that such a man can cause the Republic". 142

However, De León succeeded in "hiding from public humiliation the identities of other gentlemen" denounced by the 'beautiful Galindo' for "truthfully speaking, the boy had consented to those acts". The court released "most of these young gentlemen, amongst the most noble in Sevilla,
including Galindo himself. Galindo eventually, "repented, became a priest and led a most memorable life afterwards".  

Unfortunately, Galindo's overbearing "prettiness had caused him to continue his promiscuous behaviour" and subsequently, yet again, he fell victim to "pestilential vice". Sodomy, "once tasted", observed De León, "became difficult to forsake". The 'beautiful Galindo' had also finally succumbed to the heat of the flames.

**Ruffs and Cuffs**

Other less 'noble' individuals enjoyed fewer privileges than those offered to Galindo and his gentlemen friends. The same year as the Galindo case, the high court accused Machuco, a negro famed for his treatment of "beautiful gallant gentlemen", not of having committed the nefarious sin, but rather of "acting as an alcahuete or pimp for the young gentlemen who committed sodomy". Machuco performed "marriages" of sorts and "introduced some boys to others". He readily informed the "boys of other boys' doings". On some occasions, Machuco assured the young boys that they could "certainly trust this fellow or that fellow also touched by the vice of sodomy". In short, wrote De León, Machuco, _el negro_, functioned as a "bloodhound".

The day of their executions, officials led Machuco and two other boys out of the prison onto an open cart. The prison authorities had dressed Machuco in a "breast plate armour, himself painted on it". Machuco wore a "ruff laced with much silk, his hair curled" and sported a "grand foretop". "Two very beautiful young boys, their faces painted, their forelocks curled, dressed in silk ruffs" stood on either side of Machuco as the procession meandered toward the _quemadero_.

Machuco, "sad and melancholy, grew blacker, as the authorities forced him to join the young boys hands together just like one does in a marriage" and "just like the negro had so often performed in Sevilla". "All of Sevilla", recalled De León, had turned out and "witnessed the spectacle for the authorities had never before punished such abominable crimes in this manner".

At the _quemadero_, De León delivered one of his most memorable sermons before the Sevillian aristocracy-- "gentlemen also covered in ruffs, lace, fine linens, wearing great foretops accompanied by other learned men of letters". "Get away from me those of you who wear ruffs, cuffs and foretops for you smell of cinched wood", admonished De León. He had warned the nobles and they witnessed how the "wearing of fine linens, ruffs, cuffs and great locks of hair hanging from the forehead defamed those
that burnt at the stake". On the other hand, "the common people" present at the spectacle had "rejoiced" upon hearing De León's attack on the splendid dress of the aristocracy.

From that day forward, "a reformation ensued and the aristocracy abandoned this type of garb". Some of the most "honourable gentlemen" of Sevilla called upon Fray De León at his home, "forever grateful" to him for his 'ruff and cuff' sermon. When others, met him on the street, they laughed and stated, "may God bless you". "Brilliant discourse fray, you should be made bishop", flattered the Lord Mayor of Sevilla.¹⁴⁶

The French and the English had also worn elaborate ruffs, however in Spain, the "lace ruff reached its most perfect, uncomfortable and indulgent form".¹⁴⁷ Between 1560 to 1580, lace became an increasingly important feature of fashionable dress in most European countries. When Fynes Moryson visited the Netherlands in 1593 he noted that,

"the men use modest attire of graue colours...They use very little lace, no embroidery, yet the Hollander of old accounted the most rude of the other Provinces, at this day increased in wealth and reputation of the state, doe by little and little admit luxury, and their sonnes apply themselves both to the apparrell and manners of the English and the French".¹⁴⁸

Notwithstanding the advances in European dress, De León and others condemned the "foretops, the curls, and the silk ruffs". "No, no," manifested Fray J. Lainez, the 'ruffs and cuffs' did not constitute 'manly dress', furthermore, "those feminine adornments hindered a man's modesty".¹⁴⁹

Cervantes, too, described how Altisidora, in a dream, "saw demons wearing collars trimmed with Flemish lace, ruffles, and cuffs". Don Quixote commented that she told him, "they wear lace in hell", to which he responded, "since she knows how to make it, let it never leave her hands". Proper dress and adornments had preoccupied moralists as far back as the fourteenth-century.

Criticizing the poor state of preparation of the warriors of the Crusades, San Bernardo had chastised them for wearing, "like ladies, long names of hair" that impeded them "to see that around them". The warriors wrapped their "legs and delicate hands with long dresses and large veils" to which San Bernardo asked if they wore "suits of war or adornments of women".¹⁵⁰ The dress and the adornments women wore had long caused concern in the pulpits of the Catholic Church for many moralists believed that particular garb and accoutrements incited lustful sins.¹⁵¹
Those Sodomites—They Could Even Sniff Each Other Out

In addition to proper dress and adornments, De León pinpointed other 'signs' readily identifiable in sodomites. Young and old men alike, cautioned the fray, should have learned to recognize these "signals". Good men should "never allow their hand to be held by a less than honourable man," explained De León. The "lovers of the bestial vice," assured the cleric "knew each others identity by their tactile, or by certain signals they made to each other".

"Upon touching hands with men", the sodomites instantly "knew who pertained to their fabric and who did not" and they quickly ascertained "if they could dare" go ahead with their vile proposals. The sodomites could "smell each other" at a distance. They recognized each others' "sentiments, in the way they walked" or by observing "other movements of the body" as if uttered in "spoken words". Sodomites recognized each other by "eyesight". "If an honourable boy ever recognized these signals", recommended De León, the boy should "bombard" the sodomite and "violently frighten him away".152

Maria, Marica, Maricón

De León and other early modern writers or moralists slowly began to explicitly invoke notions of effeminacy in association with a man's proper dress and perceptions of sodomy—a discourse that gradually gained notoriety and reached a high pitched level of hysteria in mid-seventeenth century Mexico City. When Sevillian officials burnt Domingo Palacios, a cook, and Juan Bueno, a gardener in 1593, De León explained that an inn keeper had ousted Domingo from his quarters for he looked like a maricón or an 'effeminate' man, a coward, or a marica from the Latin mulier.153 The philological origins of 'effeminate' or 'effeminacy' date back to the early fifteenth century. Notions of effeminacy in early modern Spain encompassed at least four different discursive descriptions. In the first instance, effeminacy meant one "inclined to pleasure; lustful, or dissolute".154 In 1437, Santillana described an "effeminate Salomon who late in life, had submitted himself to the power of woman".155

Secondly, effeminacy referred to a "proper characteristic of woman, feminine or something that invoked femininity". Fray Cieza de León while traveling through the Peruvian countryside in 1533 noticed that "many husbands remained home weaving and performing other effeminate or feminine labours".156 "What do you want Sancho?" asked Don Quixote as he
emulated "Sancho's effeminate and hurtful tone of voice". In Filomena, Lope de Vega also employed this notion of effeminacy when he depicted "Diana as tall and as one who possessed a well proportioned body lacking a feminine face".

Thirdly, effeminacy referred to "weakness, delicateness, or blandness". In 1566, Bartolomé de las Casas described, "the inhabitants of occident as more effeminate, bland and weak hearted" than their counterparts in the peninsula. When a soldier brought his sergeant some water while the entire company of men suffered a great thirst in the Libyan desert, the sergeant refused the water and reproached the subordinate having stated, "I am not more effeminate than my soldiers".

Curiously enough, the fourth definition of 'effeminacy' or 'effeminate' pertinent to the early modern period referred specifically to men sodomites. It constituted notions of the "loss of virile characteristics in one's aspect, dress and manners, decadence, degradation or corruption". In 1513, Alfonso Herrera wrote that "not all roosters made good machos". "Some, by nature", argued Herrera, "are effeminate". De las Casas in his 1566 Apologética described the men of the Indias as tremendously "vile, weak, and effeminate-- susceptible to all nefarious vices". Furthermore, recorded de las Casas, "these effeminate men congregate in public and infamous places to effect the nefarious vice just like whores". The men that "wore the apparel of women also laboured along side them and performed feminine tasks". The others in the town "revered and adored these effeminate men".

The thought of "rewarding an effeminate man, who spoke like, wore and adorned himself with womanly dress infuriated" Hermosa Angélica in 1602. Quevedo in 1603, echoed the words of his contemporary Pedro de León, when he wrote that Tacano had "lowered his ruff" so that no one would mistake him for a "maricón". Again in 1609, Quevedo reminded his readers in España defendida that he "most lamented the manner in which men imitated women in their splendid dress and effeminacy". In one of the earliest publications of the Spanish Language, Covarrubias in his 1611 Tesoro de la Lengua Castellana defined an effeminate man as, "a womanly man inclined to occupy himself with all their duties and speak their vernacular in a delicate tone".

McIntosh and Bray have argued that the concept of the "effeminate sodomite" did not emerge in Europe until the end of the seventeenth-century and even then did not necessarily refer to a man who maintained amourous relations with another man. Trumbach also noted that the concept of effeminacy at the beginning of the seventeenth century referred to a man debilitated from the excessive carnal access to women. But, back in 1596 the Jesuit De Torres referred to the "abominable moral talent of
effeminate men who dressed in women's clothing", although he did not directly identify sodomy as a characteristic vice of effeminate men. Mateo Alemán, on the other hand, in 1597, referred to men who "liked to paint their faces" and wrote, that "apart from the actions of effeminate maricas, those actions too lent themselves to rumors and suspicions of men committing vile things for they smeared themselves with adornments solely permitted to women".

Thus, the concept of the "effeminate sodomite" in the Spanish peninsula is present in the literature and in the sermons of some moralists during the latter part of the sixteenth century. It did not, however, constitute the predominant discourse associated with sodomy prosecutions during the early modern period in the peninsula as Carrasco, Benassar, and García Carcel have indicated. The cases prosecuted by the High Courts in Sevilla and Granada and those prosecuted by the Casa de la Contratación in Sevilla, for the most part, support their findings. However, notions of effeminacy did constitute one principal basis for the prosecution of most sodomy cases in New Spain by the mid-seventeenth century as the findings I report in chapter four will establish.

**Rifts in Discourses**

In the sixteenth century, the moralists and the courts began to modify their discourses of sodomy. They tended to shy away from the diabolical images that had informed the sins against nature as in the cases of bestiality, usually understood as act saturated with Satanic overtones. They no longer conceptualized sodomy as a "taboo" but rather as an error in judgment. To be sure, this gradual transformation also eliminated the transgressional borders established between the other lustful sins and sodomy. The Counter Reformist texts written by the Salamanticienses Moralists, believed that evil could be present in any of the lustful sins and that the morbid pleasure derived from such a depraved act simultaneously increased the gravity of such acts. As such, one's self-fulfillment 'naturally' led to experimentation of other indulgent acts.

During the Counter Reformation, *contra natura* became more associated with moral condemnation and less with a rejection of religious doctrine. The moralists began to understand the lustful sins less as threats to a system of religious beliefs but as the beginning of a new social ethics. The sodomite or the libertine of the epoch represented a state of servitude whose desires overwhelmed their reason— servant of the flesh or passions. The emerging ethics began to describe this man as one who had "abandoned himself,
fallen into a state of savage nature—a nature whose divineness no longer represented a transcendental juridical order, it lost its moral atmosphere, converted into an infinite space, opposed to any law and reason. The moralists had converted the libertine or sodomite into "a disorder, a figure without reason, a threat to the State and as such subject to prosecution during the Ancien Regime". That loss of self control or licentiousness represented the submission of reason to passion.\(^{171}\)

As late as 1640 in Spain, the courts still equated sodomy with heresy and treason, all three still punishable by burning at the stake. During the seventeenth-century, procesos against sodomites continued unabated both in the peninsula and in New Spain and the severity of punishment did not diminish. In Madrid alone, the Royal Court sentenced two nuns to death for having performed a "vile carnal act", one of whom did so having "simulated being a man". Between 1622 and 1640, the Madrilian Court sentenced sixteen young boys and men to burn for the nefarious sin. In 1639, the Court imprisoned another nine who in turn, denounced another sixty men.\(^{172}\) And in New Spain, in 1658, the Royal Tribunal burnt fifteen men and apprehended over one hundred suspected sodomites. In New Spain, moralists and lawyers had argued that the acceptance and frequency with which the Indios practiced sodomy justified the conquest. Francisco de Vitoria apologetically defended the "war against the 'sin' and against the infidels" for the 'infidels' "consciously committed" sodomy and that he considered graver than committing the act by simple ignorance.\(^{173}\)

Cascadi has described seventeenth-century Spanish society as one grounded in the "theatrical images it made of itself".\(^{174}\) Gracian's work, Oráculo manual y arte de prudencia, published in the mid-seventeenth century has lent "support to the view that Spaniards shared the preoccupation with self-fashioning found elsewhere in Europe".\(^{175}\) The Spain of Felipe IV, a highly stratified and status-conscious society, found itself haunted by the spectre of decline. As such, the King himself became an important construct, consciously groomed and fashioned for the arts of kinship by first minister, the Count-Duke of Olivares.\(^{176}\)

Indeed, wrote, Richard Pym, one might almost see Felipe IV—the 'Planet King'—as having been directed, as in a play, given his willingness to collaborate as the leading actor in the pageant of royalty represented with such studied theatricality by the Spanish Court. Small wonder then, that playwright Calderón de la Barca exhibited a fundamental concern with the construct self, with the often tragic implications of man's self-constitutive adaptive strategies as part of a society obsessed with appearances and control.\(^{177}\) Pym argued that the degree of art and artifice used to fashion and
promote the 'Planet King' were symptomatic rather than causative historical factors.

Other more significant currents swept across seventeenth-century Spain, and across much of Europe. After the Council of Trent, dissolved in 1563, Spain had emerged as a bastion of Catholic conservatism against the stream of Protestant Reformation. A return to scholasticism and the emergence of an iron doctrinal zeal sternly fixated on the suppression of heresy dashed the hopes of Catholic reformers and humanists. Catholicism denounced Martin Luther's doctrine of justification by faith alone -- a doctrine predicated on the autonomy of the individual subject -- and instituted the Holy Office of the Inquisition. The Tridentine Decrees had revitalized the Inquisition in Spain after the outbreak of the French Wars of Religion in 1562 and a marked phobia of heresy in the peninsula.

However, the crusade against Protestantism or the enemy without and the anxieties about limpieza de sangre or converso blood seen as the enemy within, were but two historical influences at work in seventeenth-century Spain. Erasmian humanism had also flourished among the Spanish intelligentsia. Erasmus had opposed the Reformation, his philosophy -- insistence on the value of individual experience and its rejection of scholasticism -- had been interpreted in the Spain of Felipe II as Protestantism-by-the-back-door. As such, scholasticism identified Erasmian humanism with heresy and helped lower its status in Spain to a clandestine subalternity. Seventeenth-century Spain found itself sensitized to issues of identity, fixated on notions of religious, ethnic and gender difference.

But other socio-historical factors could have influenced the evolution of a new sense of the self. The attempted colonization of New Spain had facilitated the emergence of a new wealth-accumulating individualism which no doubt offered the prospect of an enhanced social status, one not inherited by accident of birth. The seventeenth-century ushered in the consolidation of a property owning bourgeoisie at the expense of the aristocracy. The growth of private reading had represented a relative democratization of knowledge. Although the Spanish Inquisition had attempted to relegate the advances of science to the confines of alchemy by seriously limiting the number of scientific publications between 1601 and 1625, Copernicus had nevertheless long since displaced man from the privileged centre of the universe and, in the process, had, as did Luther, demonstrated the iconoclastic potential of the individual subject in a cloud of asphyxiating orthodoxy.

The Setenta Partida, the 1497 Pragmática and the 1592 Pragmática all remained in effect in the peninsula and in New Spain until the nineteenth-century or until the institutionalization of the Penal Codes. In the peninsula,
the courts no longer burnt sodomites during the eighteenth-century. The change had little to do with the progress of humanism and tolerance, but rather to gradual changes in the discursive practices and in the technologies of the penal code that addressed the subjectivity of the transgressions-sodomy viewed as "symbol of a way of being, a spirit, licentiousness, an imagination of passions, a natural determinism". Foucault proposed a similar notion when he stated,

"La sodomía-la de los antiguos derechos civil y canónico-era un tipo de actos prohibidos, el autor no era más que su sujeto jurídico. El homosexual del siglo XIX ha llegado a ser un personaje: un pasado, una historia y una infancia, un carácter, una forma de vida asimismo una morfología con una anatomía indiscreta y quizás misteriosa fisiología. Nada de lo que él es 'in toto' escapa a su sexualidad".

Tomás y Valiente interpreted the new benevolence, or 'tolerance', that change in the collective sensibility, as the effect, and not the cause for the change. Well into the eighteenth-century, the courts and the moralists classified libertine practises, such as the abominable sin, as disorders and they no longer considered these erotic depravations as purely religious or cosmic transgressions defined by certain formulated criteria. The new discourses predestined the abominable acts, "objects of moral condemnation" and the libertine, a "slave of ignoble passions" to a 'natural' determinism. In early modern Spain, the courts did not consider the sodomitical act as an expression of a "psychological state", rather they constructed the protagonist exclusively as a juridical subject and thus the object of the judges' inquiry was to determine the material conditions of the act-- had it occurred or not, in which forms, under which conditions and situations, who functioned as agent or patient, in which positions. The courts rarely interrogated the styles of life or the thoughts and feeling of these individuals.

Carrasco has suggested that this theoretical structure transformed itself in the peninsula during the latter part of the seventeenth-century. Sodomy had evolved to simultaneously represent not only an act condemnable in and of itself, but also an external sign of an internal moral disorder or an alteration of the economy of passions. Sodomy, in the new ethical sense became known as a 'perversion'. While this transformation might have occurred in the peninsula, different discursive transformations took form in New Spain during the middle of the seventeenth-century.
El crimen y pecado contra natura", p. 55. Three years ago, Tomás y Valiente, a professor of law at the Compulense in Madrid and a former member of the Spanish Supreme Court, died in his chair while he sat in his university study, supposedly shot in the head by a member of ETA.

2 Lacra o plaga. [Metaphorically se toma por el defecto, vicio o malicia que encierra en si alguna cosa.]

3Compendio de algunas experiencias en los ministerios de que usa la Compañía de Jesús, con que prácticamente se muestra con algunos acontecimientos y documentos el buen acierto en ellos, por orden de los superiores, por el Padre Pedro de León de la misma Compañía, 1619. BUG, Caja B. 76, 255r. Compendio de industrias en los ministerios de la Compañía de Jesús, con que prácticamente se muestra el buen acierto en ellos, disputa por el Padre Pedro de Leon de la misma Compañía de Jesus y por orden de los superiores, 1628. BUS, Ms. 573 (3/4/53) tomo II, Ms. 574. P. de León, Grandexa y miseria en Andalucía. Testimonio de una encrucijada historica, 1578-1616. Two incomplete manuscripts also exist. One can be found in Sevilla, property of the Duque de T'Serclaes and the other in Alcalá de Henares, at the Archivo de la Compañía de Jesús de la Provincia de Toledo. Someone attempted to censure the two complete manuscripts by eliminating the names of the accused so as to read "N. fue quemado" Fortunately, the names listed in the Granada text are still legible.

4De León, Compendio, 223r. "[...]
muy peligrosa cosa es estarse mozos juntos en cama".

Chabes, Relación de Sevilla, 49 vto. "[...]
vive azotar y desterrar a un mercader que estaba preso en la carcel, que llamaban Villareal porque con hasta de arca de poco mas de tercia [se dice de los miembros fuertes, y robustos del hombre, fulano tiene buenos tercios] de largo formad vna natura, y con aquella hacia en si propio el mismo efecto, que suelen hacer los sodomitas en otros hombres, fue la sentencia arbitaria, y murió de los azotes".

6DeLeón, Compendio, 279 vto.


8Reyes Católicos pragmática sobre el pecado nefando, Medina del Campo, 22 agosto 1497. AGS, Leg. I, no. 4. "Salud y gracia. Sepades que acatando como Dios nuestro Señor por su infinita clemencia quiso encomendarnos la governacion destos nuestros Reinos e nos facer sus ministros en la execucion de la justicia en todo lo temporal, no reconociendo en la administracion dell a otro superior".

9Torpezas or something vile, in this context, could have implied a veiled reference to sodomitical practices.
natura, los aborrecio nuestro señor dios, de guisa que sumio ambas las ciudades con toda la gente que hi moraba [...] E de aq[ue]lla ciudad Sodoma, donde Dios fiz o esta maravilla tomo este nome este pecado que llaman sodomitico[... ]E debese guardar todo ome deste yerro, porque nacen del muchos males, e denuesta, e defama así mismo el q[ue] lo faze[...].por tales yerros embia nuestro señor Dios sobre la tierra, hambre, e pestilencia, e tormentos, e otros males muchos que no podria contar". For a discussion on the authenticity of the Partidas, the reader is referred to: F. Tomás y Valiente, Manual de Historia del Derecho Espanol, p. 237

17Genesis XIX v.s. 4 and 5 and 24 and 25 in García Valdés, Historia y Presente de la Homosexualidad, p. 37. Also see, Boswell, Christianity, pp. 115-143.
20Setena partida, Titulo XXI. p. 73. "Ley II. Quien puede acusar a los que sazen el pecado sodomítico, e ante quien, e que pena merecen aver los sazedores del, e los consentidores. Cada vno del pueblo puede acusar a los omes que hiziessen pecado contra natura, e este acusamiento puede ser hecho delante del judgador do hiziessen tal yerro. E si le fuere provado debe morir: tambien el que lo haze, como el que lo consiente [...]fueras ende, si alguno dellos lo oviere a hazer por fuerca, o fuese menor de catorz e años [...]non deve recibir pena, porque los que son forzados no son en culpa, otro si los menores non entienden que es tan gra[ve] yerro como es aquel que hazen. Esa misma pena deve aver todo ome, o toda muger, que yoguiere con bestia, e deven de mas matar la bestia para amortiguuar la remembranca del hecho".
22Cahen, El Islam, p. 15.
23García Valdés, Historia y Presente de la Homosexualidad, 37.
24Kamen, Spain 1469-1714, p. 35.
25G. Rousseau preferred the more global term 'erotophobia' in reference to similar cultural anxieties in the US. See, "No Sex Please, we're American".
26A. de Castro, De potestate legis poenalis libri duo, Andrea Portonariis, Salamanca, 15, epistola nuncupatoria, fol. 3. BFT. I am grateful to Fray Candido Rubio, head librarian at the Biblioteca de la Facultad de Teología in Burgos for his warm support, attentive comments, and reading and supervision of the translations from the Latin.
27S. de Beauvoir, "Must we burn Sade?" p. 61.
30J. de Enríquez, Questions practicas de casos morales.
32In seventeenth-century Salamanca, for example, the local authorities customarily rid the city of prostitutes during holy week for they thought it best not to sin given the solemnity of the event. Then, on the second monday after Easter, known as 'lunes de aguas', young boys returning from Arrabal, carried prostitutes in their arms as they crossed the Tormes River back into Salamanca.
34"Madrid, jueves santo de 1637, un escribano real[... ]habiendo guardado ocasion y dia en que su mujer habia confesado y comulgado le dio garrote en su casa haciendo oficio de verdugo y pidiendole perdon, y esto por muy leves sospechas de que era adultera". Quoted in, F. Tomás y Valiente, El Derecho penal de la Monarquia absoluta, p. 73.
35M. Jordan, The Invention of Sodomy in Christian Theology.
36San Pablo, The New Testament, vs. 26-27. "Por esto los entrego Dios a las pasiones vergonzosas pues por una parte sus mujeres cambiaron el uso natural por el que es contra naturaleza[...].Jambien los varones abandonando el uso natural de la mujer se abrazaron en la concupiscencia de los unos con los otros, hombres con hombres cometiendo cosas vergonzosas".


R. Carrasco, *Inquisición y represión sexual*, pp. 31-32. Sodomy meant three things: in the formal sense —a sin of lust; in a more general sense— it became synonymous with sin against nature including bestiality; and thirdly— a trope or metonym depicting the image of fornication through the "filthiest orifice" between men.


*Las Siete Partidas con la Glosa de Gregorio López*, pp. 329-330. "Todo hombre se ha de guardar de este error porque de el nacen muchos males[. . .]pestilencia y tormentos y otros".


Reyes Católicos prematrícula sobre el pecado nefando. AGS. Leg. 1, num. 4. *Título XXX. De la sodomía, y bestialidad*. Ley I. D. Fernando y Dña Isabel en Medina del Campo a 22 de Agosto de 1497. Pena del delito nefando; y modo de proceder a su averiguacion y castigo. Porque entre los otros pecados y delitos que ofenden a Dios nuestro Señor, e infaman la tierra, especialmente es el crimen cometido contra orden natural; contra el qual las leyes y derechos se deben armar para el castigo deste nefando delito, no digno de nombrar, destruidor de la orden natural, castigado por el juicio Divino; por el qual la nobleza se pierde, y el corazón se acobarda[. . .]y se indigna a dar a hombre pestilencia y otros tormentos en la tierra[. . .]y porque las antes de agora no son sufcientes para estirpar, y del todo castigar tan abominable delito[. . .]y en quanto en Nos sera refrenar tan maldita macula y error[. . .]mandamos, que qualquer persona, de cualquier estado, condición, preeminencia o dignidad que sea, que cometiere el delito nefando contra naturam senyendo en el convencido por aquella manera de prueba, que segun Derecho es bastante para probar el delito de heregia o crimen laesae Majestatis, que sea quemado en llamadas de fuego en el lugar, y por la Justicia a quien pertenesiere el conocimiento y punicion del tal delito[. . .]y sin otra declaracion alguna, todos sus bienes asi muebles como raices; los quales desde agora confiscamos, y habemos por confiscados y aplicados a nuestra Camara y Fisco[. . .]mandamos, que si acaeciere que no se pudiese probar el delito en acto perfecto y acabado, y se probaren y averiguaren actos muy propinuos y cercanos a la conclusion del, en tal manera que no quedase por el tal delinquentes de acabar este danado yerro, se habido por verdadero hechor del delito, y que sea juzgado y sentenciado, y padezca aquella misma pena[. . .]y que se pueda proceder en el dicho crimen a peticion de parate o de cualquier del pueblo, o por via de pesquisa, o de oficio de Juez: y proceder contra el que lo cometiere, y en la manera de la probanza, asi para interlocutoria como para definitiva, y para proceder a tormento y en todo lo otro, mandamos, se guarde la forma y orden que se guardara[. . .]en los crimenes y delitos de heregia y laesae Majestatis[. . .]que los que fueren acusados sobre este delito, que lo hobiere cometid antes de la publicacion desta Pragmática y no despues, que se guarden las leyes y Derechos que son hechas antes desta nuestra carta[. . .] A transcribed version of the *Pragmática* can be found in, *Novísima Recopilación de las Leyes de España*, Libro XII, *Título XXX*. Pp. 427-429. AGI.
Vir

38Petición de Mencia Velázquez cristiana nueva, mujer de Nuño de la Torre, boticario, vecina de la villa de Arévalo ante el corregidor de dicha villa, por la que reclama la restitución de los bienes que le fueron confiscados a su marido por cierto delito que cometió, alegando ella, que eran bienes dotales que llevó a su matrimonio y que estaban comprendidos en la carta de dote otorgada el siete de marzo de 1479. RCV, Pleitos Civiles Quevedo Fenecidos, Legajo 315. Caja 1412-4.

39Ejecutoria a pedimento de Catalina de Belunza, vecina de San Sebastián, año 1503. ARCV, Registro de Reales Ejecutorias, Caja 181, Exp. 39, fol. 6-13. "[. . .]el alcalde hizo vender y rematar ciertos bienes de Catalina para pagar las costas del pleito[. . .]los bienes son tres camas guarnecidas y entresabinas y cabezales y cubiertas de camas quince piezas y dos sayas, la una blanca y la otra verde, y un zapato raído y una taza de plata de peso de un marco y medio menos un real[. . .]y después el alcalde[. . .]falbo que debía de condenar a Catalina a pena de destierro perpetuo de toda la jurisdicción de San Sebastián y la condeno en las costas del pleito[. . .]de la cual dicha sentencia fue apelado y Catalina se presentó en Chancillería[. . .]y alegó muchos agravios contra la sentencia y venta y remate de los dichos sus bienes y dijo en especial porque ella no había hecho ni cometido delito alguno por donde debiese ser condenada a pena alguna[. . .]y acuso criminalmente al [alcalde] sin haber contra ella probanza alguna, le hiciera dar los tormentos y venderle y rematárselle sus bienes[. . .]y pidio fuese procedido contra él[. . .]y que le mandasemos condenar a que le volviese y restituyese todos los bienes que le tomara o por ellos sesenta ducados de oro en que los estimo[. . .]y por nuestros alcaldes fallaron que el dicho [alcalde] juzgara y pronunciara mal y Catalina bien. Por ende, debían absolver a Catalina de todo lo contra ella acusado[. . .]y el alcalde procediera mal y no debiera vender los bienes de Catalina[. . .]y que le diese y restituyese todos los bienes, tales y tan buenos como estaban al tiempo que los vendiera[. . .]y si el [alcalde] no restituyese los bienes que vendió[. . .]con mas los 11.552 maravedís de costas[. . .]dentro de nueve días[. . .]mandamos mandaíes hacer ejecución en sus bienes muebles si los halla redes y si no en raices con fianzas de saneamiento y vendédolos y rematados[. . .]y los maravedís haced pago a Catalina[. . .]y si no halla redes bienes en que hacer la ejecución prenderle el cuerpo y no le dedes sueldo hasta tanto que Catalina sea contenta y pagada[. . .]Valladolid a 21 días de julio de mil quinientos tres años".

50On the clergy and their solicitation of men see, J. A. Alejandre, El Veneno de Dios.

51F. Tomás y Valiente, El Derecho Penal de la Monarquía Absoluta, p. 319.

52Marañón, Don Juan, quoted in Vázquez García and Moreno Mengíbar, p.231. "[. . .]Igran numero de personas conocidas fueron inculpadas de sodomía desde criados y bufones de las casas aristocráticas hasta los mismos señores de estas[. . .]uno de ellos era Don Juan de Tarsis es la primera vez que el nombre de Villamediana aparece sin una mujer a su lado. El era jefe de la banda. Los mas humildes fueron condenados a muerte y ejecutados en Madrid[. . .]a los pecadores encapotados les dejaron huir a Italia y a Francia".


54See his royal decree against a cleric named Cristóbal González accused of having intended to commit the nefarious sin with an assistant. AGS, Real Cédulas, Camara de Castilla, No. 25. "[. . .]sobre el pecado nefando que trato de cometer un clerigo llamado Cristóbal González con un sacristan".

55De León, Compendio, 285vto. Don Alfonso, El sabio, las siete partidas, Vol. III. partida VII, ley XV, p. 657: "pero si fuese probado que la mujer casada hiciera adulterios con su siervo, no debe haber la pena sobredicha, mas deben ser quemados ambos por ende".

56Novísima Recopilación de las Leyes de España, Libro XII, Título XXX. (ley 2. tit. 221, lib. 8 R) pp. 427-429. "D. Felipe II en Madrid por pragmática de 1592. Prueba privilegiada del delito nefando para la imposición de su pena ordinaria. "Por muy justas causas al servicio de Dios[. . .]y a la buena ejecución de nuestra Real Justicia, y deseanos extirpar de estos reynos el abominable y nefando pecado contra naturam, y que los que lo cometieren, sean castigados[. . .]sin que se puedan evadir ni excusar de la pena establecida por Derecho, leyes y Pragmáticas destos reynos de no estar sufiiciente probado el dicho delito por no concurrir en el averiguaciones de testigos contestes por ser de tan gran torpeza y abominación, y de su naturaleza de muy dificultosa probanza; mandamos, que en nuestro
Consejo se tratase y confiriése sobre el remedio jurídico que se podía proveer, para que los que lo cometiesen fuesen castigados, aunque el dicho delito no fuese probado con testigos, sino por otras formas establecidas y aprobadas en Derecho, de las cuales pudiese resultar bastante probanza para poderse imponer en la pena ordinaria[...].y mandamos, que probándose el pecado por tres testigos singulares mayores aunque cada uno de los deponga de acto particular y diferente, o por quatro, aunque sean partícipes del delito, o o padezcan otras cualesquiera tachas que no sean de enemistad capital, o por los tres destos, aunque padezcan tachas, y hayan sido ansísimos participantes[...].se tenga por bastante probanza; y por ella se juzguen[...].de la misma manera que si fuera probado con testigos contestes, que depongan de un mismo hecho".


59 G. López, "Omes" Partida VII, 21, 1. "Aunque dice la ley hombres, se incluye tambien a las mujeres tanto cuando una con otra haga contra natura como cuando varon con hembra haga el coito contra natura[...].asi pues el pecado femenino es posible y ha de ser castigado".

60 Ibid. [coito de mujer con mujer no se encuentra castigado por ley divina ni humana[...].]aunque este es un pecado grave no es tan grave como el vicio sodomático de varon con varon[...].[mayor es la perturbacion del orden natural en el pecado sodomitico entre varones que entre mujeres.]

61 F. Tomás y Valiente, "El crimen y pecado contra natura", p. 46.

62 C. Chabes, Relación de las cosas de la carcel de Sevilla y su trato. For more detailed descriptions of the prison see also, C. Chabes, Ensanchez of the segunda parte de las cosas que passan en la carcel reducidoz por Chabes vecino de Sevi[ll]a, No. 70, 1592. 48 vto. "[...].ha avido muchas mugeres, que queriendo ser mas hombres, que lo que la naturaleza les dio se han castigado muchas, que en la carcel se hacian gallos con vn baldres hecho forma de natura de hombre, que atado con sus cintas se lo ponian, y han llevado por esto doscientos azotes, y destierro perpetuo".


65 ARCV, Ejecutoria de Catalina, fols. 1-2. "Catalina de Belunza y Mariche de Oyarzun usaban en uno como hombre y mujer, echándose en una cama desnudas y retocándose y besandose y cabalgandose la una a la otra, y la otra a la otra, subiendose encima de sus vientres desnudos, pasando y haciendo actos que hombre con mujer deberia hacer carnalmente[...].el cual delito habian hecho y perpetrado muchas y diversas veces".

66 ARCV, Ejecutoria de Catalina, fols. 3-4. "el procurador fiscal Juan Sanchez de Sorola pedia las condenase en ellas y las hiciese ejecutar en sus personas y bienes[...].y asimismo pidio que Catalina fuese puesta a cuestion de tormento[...].Catalina fue puesta por dos veces a cuestion de tormento de agua y le fue dado en cierta forma, haciendole sobre ello ciertas amonestaciones y diligencias para que dijese la verdad la cual en los tormentos ni en alguno de ellos no dijo ni confeso cosa alguna antes dicho que era inocente y sin culpa[...].y alego[...].que la acusacion y pesquisa ser ninguno y de ningun efecto en especial porque Juan de Sorola era incapaz e inhabil y persona privada para poner la acusacion porque era hombre mentecato y estaba fuera de su juicio natural según era notorio".

67 ARCV, Ejecutoria de Catalina, fol. 8. "Lo otro porque habiendo solamente contra ella un testigo y mujer y estando cumplidamente tachada y pareciendo por su dicho y deposicion ser ella participante del dicho pleito".

68 Criminal contra Inés Santa Cruz y Catalina Ledesma por prostitutas y bujarronas cuya operación ejecutaban con una caña en forma de miembro viril, año 1603, AGS, Cámara de Castilla 2557, Perdones de viernes santo, Leg. 9. The history of Santa Cruz and Ledesma is related to the reader by the current author in a forthcoming publication.

69 Sanchez Ortega, La Mujer y la Sexualidad, p. 33.
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70P. Ciruelo, Arte de bien confesar.

71Breve instrucción de cómo se ha de administrar el sacramento de la penitencia, compuesta por el padre maestro F. Bartholomé de Medina, catedrático de Prima Theologia de la Universidad de Salamanca, de la Orden de Santo Domingo, 1591, BFT, fol. 227b.

72 See footnote 16.

73A. Gómez, Ad Leges Tauri commentarium absolutissium, Martriti, MDCCLXXX, Ley LXX, No. 32-35. pp. 704-708. [si alguien tiene acceso con otro hombre comete el abominable y detestable delito de sodomía contra natura, el cual es mas grave que los demás crímenes, admas del de herejía y tiende a la maxima ofensa de Dios y de toda la naturaleza.]

74A. de Torres, 'Relación. De como una monja de Ubeda se torno hombre'. In, Relaciones Historicas de los siglos XVI y XVII. A surreal counterpart to the plight of Magdalena consists of the trials that occurred to 'poor' Fray Diego Nuñez, which began as painful bodily functions until one day he peeked into a mirror and found himself sporting a 'vagina'. The case evolved in a 1733 cloister in Amecameca, México and is Wittily recounted in, Ouweneel, De vergeten stemmen van Mexico, pp. 194-197. On hermaphrodites in early modern Spain, see the discussion in Vázquez García & Moreno Mengíbar, Sexo y Razón, pp. 187-284. See especially footnote 14, page 191 with reference to the discovery of Elena o Eleno de Cespedes' Inquisitorial proceso as far back as the early 1970s. For a 'lighter reading' of Elena o Eleno see, I. Burshatin, "Interrogating Hermaphroditism in Sixteenth-Century Spain".

751 carga=2 fanegas and 1 carga=149.6 kilos. On the conversions of weights and measures see the tables constructed in Ouweneel, Shadows over Anáhuac, p. 371. [una partida de cien fanegas de trigo, por tener oficio de granera, que es depositaría de trío, lo había medido y transpalado todo en una tarde]

76A. de Torres, 'Relación. De como una monja de Ubeda se torno hombre'.


78R. Carrasco, Inquisición y Represión, p. 32. Inquisitorial documents began to make distinctions between 'sodomy', and 'bestiality' after 1580.


80A list of sources on Spain and its prosecution of sodomities and other sexual transgressions is quoted in the Prologue, footnote 37.

81On sodomía in México see the Prologue, footnote 38.

82Cartas acordadas por el [Señor] Inquisidor [Presidente] y señores del supremo de la Inquisición para gobierno en los tribunales del [Sant]jo O[cifico], BN, Mss. 848, fol. 77.

83R. Carrasco, Inquisición y Represión, p. 32. Inquisitorial documents began to make distinctions between 'sodomy', and 'bestiality' after 1580.

84Garía Carcel, Herejía y sociedad en el siglo XVI.

85Foucault, Historia de la locura en la época clásica, p. 23.

86Kamen, La Inquisición Española, p. 217 In sixteenth-century Germany alone, the total number of witches executed exceeded 10,000.

87Salazar, Promptuario de Materias Morales, pp. 345-346.

88De Mariana, De Spectaculis, p. 446. "[...]no se remedia ues este mal deseo[...]sino antes se enciende mas[...]porque menospreciadas las rameras y no haziendo caso de lo que esta en la mano, el ano un vez corrompido con el deleite siempre pasa y pretende cosas peores".

89De Maqueda, Invectiva en forma de discurso contra el uso de las casas publicas de las mujeres rameras, pp. 20-23.

90De Torres, Philosophia moral de principios para su buena crianza y gobierno, p. 652.

91Vázquez García & Moreno Mengíbar, Sexo y Razón, p. 227.

92On the convergence of the rupture of alliances against the familial order and God, the reader is referred to the discourse on sexuality during the reign of Enrique IV Trastámara in Firpo, "Los Reyes sexuales" pp. 217-226.

93R. Carrasco, Inquisición y Represión, pp. 34, 49-50.
admiración que seduzca a los que no están en el paraiso... Jjamas o se detengan con una in... 

Ibid. ... "si la mujer pudiera venerar al hombre estando en el paraíso, no debe causarnos admiración que seduzca a los que no están en el paraíso... [.] jamás os detengais con una
mujer sola y sin testigo". For another scathing critique of women, the reader is referred to: Fray Juan Laguna, *Casos raros de vicios y virtudes para escarmiento de pecadores.* Murcia, 1763. BFT. According to Laguna, "el pecado tuvo principio de la mujer, y por ello entro la muerte en el mundo".

112 *Summa Theologica*, I, q. 92, art I, ad. 2. BFT.

113 Pedro de León, born in 1545 in Jerez de la Frontera, joined the Jesuits in 1567 and died in Sevilla on 24 September 1632. De León's superiors at the Universidad de Granada stipulated that the manuscript 'no se saque de la libreria sin licencia del superior, y que esto sea por dos horas, y se vuelva luego a poner en su lugar. Sevilla 6 mayo de 1619". Another recently discovered manuscript of the colonial period surfaced in the summer of 1977 in the midst of the renovation of the former Monastery of the Padres Carmelitas Descalzados de San Lucar de Barrameda in Cádiz, today the Parish of Carmen. The masonry labourers found the eighteenth century manuscript rolled up, inserted in some sugar cane and hidden in the roof, signed by Fray Francisco González Vázquez who had lived in México between 1788 and 1822. It contained his memoirs or confession of his sexual escapades with some seventy-one young adolescents, mostly boys but also girls. This wonderful history is related in, J. Leiva and N. Montoya,* La Caña Rota*.

114 P. de León, *Compendio* [...]. Prologo 1 vto.


119 De León, *Compendio*, 258.

120 De León, *Compendio*, 222.

121 De León, *Compendio*, 293 vto.

122 G. Escolano, *Segunda parte de la Decada primea de la Historia de la insigne y coronada ciudad y reyno de Valencia*. "En fin de dicho mes de julio hablo el demonio como salir de la suya para sacar de quicios al pueblo que quedaba sin cabezas, porque habiendo predicado un maestro Luis Casteloi, de la orden de San Francisco[...].que el vicio de sodomia habia prendido en Valencia, traido por personas extranjeras de allende que a ocasion de mercadear la moraban y que este era el senuelo que llamaba los castigos de Dios que tan espesos llovian sobre nosotros y mas pestilencias, se exaspero las gentes tanto de oir aquel nefando noombre que pusieron faldas en cinta en buscar los culpados y habiendo descubierto cuarto de ellos [la] justicia criminal[...].los mando quemar".


125 Vázquez García & Moreno Mengíbar, *Sexo y Razón*, p. 226, n. 76.


129 Sánchez Ortega, *La mujer y la sexualidad*, pp. 260-263

130 T. van der Meer, *Sodoms zaad in Nederland*, p. 370.

131 De León, *Compendio*, 373r-374r.


133 De León, *Compendio*, 374r.

134 De León, *Compendio*, 250r.

135 De León, *Compendio*, 307r.

136 De León, *Compendio*, 251vto-252r.

137 De León, *Compendio*, 293vto.

138 Morgado in his chapter 'Hermoso sitio de Sevilla' in *Historia* described the meadows as, "Por lo alto pueden andar toda la cerca mano por mano dos personas[...].Lib segundo, cap. 5, pp. 128-129[...].La amenidad y la frescura de la Huerta le habian convertido en el refugio de las clandestinidades sociales mas comprometidas del siglo XVI".
Hughes, *Unpublished Chapters of Fynes Moryson's 'Itinary*, p. 169. Levey stated that the move of the Hollanders toward a more luxurious style of living was representative of a Europe-wide development which gained momentum since the late fifteenth-century as a result of political and economic changes. The expansion of trade produced new wealth expressed not only in ownership of land but in cash and in goods—particular by houses, possession of lavish furnishings and luxurious dress. The gap between the new bourgeoisie and the poor widened. Lace-making as well as other luxury trade industries flourished. New ideas, including those of dress spread relatively quickly across the Continent. The leading courts of Spain and Italy, France and England drew upon the same raw materials for their clothes: silks, embroideries and passementerie from Italy and Spain, fine woollens from England, linen and whitework from Flanders. Other surveys on the history of lace include, Bruggeman, *Kant in Europa*, and Reade, *Het Spaanse Costuum*.

Fray J. Laínez, *Privado Christiano*, 42a. [. . .] "[ . . .] no es, no, trage de varón el que se vsa; atavío afeminado sí, que le estrena y astiga la modestia".

P. Boissonade, *Life and work in medieval Europe*, p. 205. [. . .] "[ . . .] vosotros haceís todo lo contrario llevais al modo de las damas larga cabellera que os estorba ver lo que teneís alrededor embarazais las piernas con vuestras largos vestidos envolvéis vuestras piernas y delicadas manos con grandes velos [. . .]. son estos equipajes de guerra o adornos de mujeres".

Cardenal Belluga, *Contra los trages, y adornos profanos. En que de Doctrina de la Sagrada Escritura, Padres de la Iglesia, y todo genero de Escritores, y razones Theologicas se convence su grave malicia. Donde se dan doctrinas importantissimas contra todo genero de vicios muy utiles para Predicadores, y Confessores, y para todos los fieles. Murcia, 1722. BFT. See also, Anónimo, *Traje español, 1577, Habitus praecipuom. BN*.

De León, *Compendio*, 301r. [. . .] "[ . . .] el primero cocinero y el otro hortelano [. . .] y a Domingo habían echado de casa porque parecía maricon*. [Maricon. el hombre afeminado y cobarde, y lo mismo que marica. Lat. Vir mulier. Marica. Se llama el hombre afeminado y de pocos brillos, que fe deixa fupeditar y manejear, aun de los que son inferiores.] In, *Diccionario de Autoridades, 1732*.


Marquís de Santillana, *Glosados, Madrid*, 1944. "El cual [Salomón], casi en el postrimero tiempo de sus días, afeminado e sometido al poderío de la muger".

Cieza de León, *Crón Perú.* 57a. [. . .] "[ . . .] muchos de sus maridos están en sus casas texendo y hilando [. . .] y haciendo otros oficios afeminados".

Cervantes, *Quixote* I 15 f 59v° "¿Que quieres, Sancho hermano?, respondió don Quixote, con el mismo tono afeminado y doliente que Sancho".

Lope de Vega, *Filomena* 67c. "Era Diana bien hecha y de alto y proporcionado cuerpo, no tenía el rostro afeminado, con que parecía luego vn hermano mancebo".

De las Casas, *Apologética*, I, pp. 85-87, 401-07, 470-71. [. . .] "[ . . .] los que habitan en la parte hacia el occidente afirma el contrario, diciendo que son gentes más afeminadas y de más blандos y muelles corazones".
160 Escalante, Arte Militar 77v: "Trayéndole un soldado un vaso de agua en ocasión que todo el ejército padecía gran sed en la Lybia, le derramo, diciendo que no era él más afeminado que sus soldados".

161 A. Herrera, Agricultura, 145 v°. "Los gallos [...] no son todos buenos para machos, y vnos ay que de su misma naturaleza son afeminados".

162 De las Casas, Apologética, I, 403. "Este fue hombre torpísimo, muelle y afeminado, dado a todos vicios nefandos, según Diodoro. Ibid. II, 232: Los afeminados se constituiían en públicos o ínfiames lugares para el oficio nefando, como las públicas mujeres. Ibid. II, 128: Júntanse y adorananse [los hombres en Asia la Mayor], y cerca deste ejercicio exarden tanto que son quasi como mujeres, afeminados. Ibid. II, 359: Vestiéndose vestidos de mujeres[...]. Jibanse con las mujeres y en oficios y artes mujeres se ocupaban como ellas [...] a estos tales así afeminados, todos los otros sus vecinos adoran y reverencian".

163 Lope de Vega, Hermosa Angélica (1776) 73, "¡Qué furia[...] te incita[...]a dar el premio a un hombre afeminado, con habla, trage y mugeril adordo?"

164 Quevedo, Vida del gran Tacano, cap. 23 "Y porque no le tengan por Maricon, abaxe efe cuello y agovie de efpalda".

165 Quevedo, España defendida, 371a. "Y lo que más es de sentir, es de la manera que los hombres las imitan en las galas y lo afeminado".

166 Sebastian de Covarrubias, Tesoro de la Lengua Castellana, 17d. "[...]el hombre de condición mugeril, inclinado a ocuparse en lo que ellas tratan y hablar en su lenguaje y en su tono delicado".


170 M. Alemán, Guzmán de Alfarache, Tomo 1, pp. 245-246. "[...]que pues demas que son actos de afeminados maricas, dan ocasion para que dellos murmuren y se sospeche toda vileza viendolos embarrados y compuestos con las cosas solo a mujeres permitidas".

171 Vázquez García and Moreno Mengibar, Sexo y Razón, pp. 230-232.

172 F. Tomás y Valiente, El Derecho Penal de la Monarquía Absoluta, p. 229.

173 F. de Vitoria, Reelecciones Teológicas.


177 R. J. Pym, "The Subject", 276.


180 Vázquez García and Moreno Mengibar, Sexo y Razón, pp. 233, note 90.

181 Foucault, La Voluntad de Saber, p. 56.

182 Tomás y Valiente, El Derecho Penal de la Monarquía Absoluta, p. 51.

183 Vázquez García and Moreno Mengibar, Sexo y Razón, pp. 232.

184 R. Carrasco, Inquisición y Represión, pp. 49-50. See the 1758 case of Gesualdo Felices, aristocrat in Valencia, who organised 'parties; for young boys, asking them to 'spank' him so as to then engage in 'sodomitical practices'.