HISTORIA Nº 55, vol. I, enero-junio 2022: 171-194
ISSN 00717-7194

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The Church and Justice: Indians, Blacks and mixed-race before the instances of episcopal power in eighteenth century in Maranhão[1]

Abstract

In colonial society, baptized Indians, mixed-raced individuals, *cafuzos*, *mamelucos*, Black people and *pardos* were subject to the jurisdiction of bishops. All dioceses had episcopal tribunals, but their records represent a documentary resource that has received little historiographical attention. The aim of this article is to investigate the role of episcopal power in the repression and attempt to control the deviant behaviours of the non-white populations whose members fell under differentiated ethnic and legal categories. Documents indicate a significant integration of Indigenous and mixed-race individuals into the Christian life of the communities based on the knowledge they demonstrated of the rules and behaviours required of Christians. The episcopal power largely preferred to rehabilitate and preserve these new Christians in colonial Maranhão of the Portuguese Amazon during the eighteenth century.

Keywords: Maranhão, Portuguese Amazon, eighteenth century, episcopal power, repression and control, Indians, mixed-race, black people

Resumen

En la sociedad colonial, los indios bautizados, los mestizos, los cafuzos, los mamelucos, los negros y los pardos estaban sometidos a la jurisdicción de los obispos. Todas las diócesis contaban con tribunales episcopales, pero sus registros representan un recurso documental que ha recibido poca atención historiográfica. El objetivo de este artículo es investigar el papel del poder episcopal en la represión y el intento de control de los comportamientos desviados de las poblaciones no blancas cuyos miembros se encuadraban en categorías étnicas y jurídicas diferenciadas. Los documentos indican una importante integración de los indígenas y mestizos en la vida cristiana de las comunidades a partir del

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[1] This article was written in the context of the project PTDC/HAR-HIS/28719/2017, entitled: "Religion, Administration and Ecclesiastical Justice in the Portuguese Empire (1514-1750)" - ReligionAJE (H2020 and FCT-Portugal) and is financed by Maranhão State Science and Technology Research Foundation (FAPEMA) through two projects: Universal-01310/18 and Postdoctoral (BPD-90866/2018). For their thoughtful comments, criticisms, and suggestions, I would like to thank José Pedro Paiva.

conocimiento que demostraban de las normas y comportamientos exigidos a los cristianos. El poder episcopal mostró especial preferencia por la rehabilitación y preservación de estos nuevos cristianos en el Maranhão colonial de la Amazonia portuguesa durante el siglo XVIII.

Palabras claves: Maranhão, Amazonia portuguesa, siglo XVIII, poder episcopal, represión y control, indígenas, mestizos, negros

Received: April 2021
Accepted: September 2021

The concepts and social categorizations used in the past are not always understood in the present. The colonial societies established in the late 15th century comprised a profound biological and cultural mix, although this phenomenon was not the same everywhere[2]. Regarding the dynamics of these miscegenation, Eduardo França Paiva points out that, with each new generation, "the Ibero-American lexicon was becoming broader, more widespread and more practiced, in other words, it was becoming naturalized, it was growing and consolidating itself among many groups that integrated that society". Both in the metropolis and in the colony, the structure of society was based "on social distinction, classification and hierarchy"[3]. In this regard, António Manuel Hespanha has argued that society was conceived as a set of autonomous and unequal parts that mirrored the "explanatory frame of the way of being of modern institutional structures, both metropolitan and colonial"[4].

The social categorization of "Indians", *mameluco*, *cafuzo*, mulatto, Black and *pardo* people constituted material aspects of their identity and appeared abundantly in the documentation left behind which in turn allows historians to recover implications of the categorization. Regarding the *mamelucos*, for example, Ronaldo Vainfas points out that their status is more complex than simply the children of Indigenous and white parents[5]. The status of *cafuzos*, similarly assumed, according to André Ferreira, has a great diversity of meanings in the Amazonian territories, even though the designation was generally used to designate children of Indigenous and Black parents[6].

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[2] Serge Gruzinski, *O pensamento mestiço,* São Paulo, Companhia das Letras, 2001; Stuart Schwartz, "Brazilian Ethnogenesis: Mestiços, mamelucos and pardos", in Serge Gruzinski et Nathan Wachtel (coords.), *Le Nouveau Monde: Mondes nouveaux. L'experience americaine*, Paris, EHESS, 1996, pp. 7-27.

[3] Eduardo França Paiva, *Dar nome ao novo. Uma história lexical da Ibero-América entre os séculos XVI e XVIII: as dinâmicas de mestiçagens e o mundo do trabalho,* Belo Horizonte, Autêntica, 2015, pp. 174 and 125, respectively.

[4] Antonio Manuel Hespanha, *Imbecilitas. As bem-aventuranças da inferioridade nas sociedades de Antigo Regime,* São Paulo, Annablume, 2010, pp. 52-53.

[5] The author analyzes everything from the word's etymology to *mameluco* transgressions of Catholicism, which were reported to the Inquisition. Ronaldo Vainfas, *A Heresia dos Índios: catolicismo e rebeldia no Brasil colonial*, São Paulo, Companhia das Letras, 1995, pp. 141-159.

[6] In the specific context of Maranhão, André Ferreira argues that the administrative authorities and even the

Mulatto was one of the most common miscegenation categories found in the documentation in general, yet at the same time, one of the least clearly defined. It presents more variations than the others and was sometimes even confused with others such as *pardo*, *zambo* and even white, according to Eduardo França Paiva[7]. Not even the designation of Black is without ambiguity. As mentioned by Rafael Chambouleyron and Karl Heinz, in the "17th century Amazon, the black people sometimes referred to the native people as black, while they called themselves African"[8]. Finally, *pardo,* according to Rafael Bluteau's dictionary, refers to the "color between white and black, proper to the sparrow, where the name seems to have come from"[9].

In addition to the ethnic designation and their given names, these men and women carried markers of the legal condition that defined their social place: slaves, freed slaves, servants, or freedmen[10]. Based on these designations, skin color, family ancestry and place in the hierarchy of the labour system, several issues can be addressed. Here the basic intention is exploring how the establishment and operation of a diocese in the Amazon, with its various agents and organs, acted and intervened in the daily life of the various local populations distinguished primarily by their skin color. The particular dynamics of miscegenation and slavery will not be discussed, but these themes traverse the analysis of the application of the episcopal justice at many points, especially because the "quality" and legal status of these individuals are always relevant in the trials that will be discussed here[11].

The space for this investigation is the bishopric of Maranhão created in 1677 that covered the territory now known as the Portuguese Amazon in the colonial states of Grão-Pará and Maranhão. In the 18th century, with the foundation of the bishopric of Pará in 1720, the boundaries of the diocese of Maranhão were reconfigured to encompass Piauí, which previously belonged to the bishopric of Pernambuco[12]. At the end of the 18th cen-

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colonists used the term *cafuzo* to distinguish native people from wilderness and their descendants, mixed-race or not, who were born in or around villages. In addition, another connotation of *cafuzo* marked the transition of enslaved indigenous to freed slaves. André Luís Bezerra Ferreira, *Os versos que o livro apagou: cativeiro, escravidão, liberdade de índios e mestiços na Capitania do Maranhão (1680-1777),* Doctoral Qualification Report, Postgraduate Program in Social History of the Amazon, Belém, Federal University of Pará, 2020, pp. 54-55.

[7] See Paiva, *Dar nome ao novo...*, *op. cit.*, pp. 40-41 and 75-82. John Monteiro describes *mulattos* in 17th century São Paulo in the 17th century as African and indigenous mixed-race see: John Monteiro, *Negros da terra: índios e bandeirantes nas Origens de São Paulo*, São Paulo, Companhia das Letras, 1994, pp. 154-188.

[8] Rafael Chambouleyron and Karl Arenz, "Indiens ou Noire, libres ou esclaves: travail et métissage en Amazonie portugaise (XVIIe et XVIIIe siècles)", in *Caravelle*, n.° 107, Toulouse, 2016, p. 16.

[9] Rafael Bluteau, *Diccionario de Língua Portuguesa.* Available at https://digital.bbm.usp.br/handle/bbm/5413 [Accessed: October 3, 2019]

[10] "Servant" was used for Indigenous workers maintained by settlers. They were not legally slaves. In the proceedings analyzed, these so-called servants were Indigenous people who were "managed" by third parties.

[11] "Quality", in the coeval social vocabulary, referred to dozens of types or castes, "among which people and social groups were distributed and to which they were linked". Regarding Portuguese America, Eduardo França Paiva clarifies that "the notion of nature distinct from people and social groups also appeared under the 'big' quality category." See Paiva, *Dar nome ao novo...*, *op. cit.*, pp. 126-129.

[12] Politically speaking, the State of Maranhão was an administrative unit separate from the State of Brazil. São

tury, the diocese of Maranhão consisted of twenty-five parishes in the captaincy of Maranhão, with 61,699 inhabitants, and ten parishes in Piauí, with an estimated population of 37,044 inhabitants living in towns, villages, and "sites". According to the government map of José Teles da Silva, "Indian village" or "Indian site" was used to define nineteen of the twenty-five localities and that the geographic structure of the two captaincies was defined in terms of communities or old villages[13]. This classification was especially important for the organization of the diocese, since the subsequent determination of where to establish parishes would take them into consideration, as can be observed in map 1.

Map 1
Bishopric of Maranhão and its parishes in the eighteenth century

Source: Map adapted from Muniz*, op. cit.*, p. 97.

The episcopal court of the diocese of Maranhão has been in operation since the 17th century. The earliest book of bishopric provisions is still preserved; however, it only

Luís, which was also the seat of the bishopric, was the capital of the state until the middle of the 18th century. In the 1770s the State split into two, forming the State of Grão-Pará and Rio Negro and the State of Maranhão and Piauí. Only two bishoprics, Maranhão and Pará, served this entire territory during the 18th century and part of the nineteenth. See Pollyanna Muniz, *Réus de Batina. Justiça Eclesiástica e clero secular no Maranhão colonial,* São Paulo, Alameda, 2017, pp. 27-28.

[13] In Maranhão: Vinhais, indigenous village; Paço do Lumiar, indigenous village; São José indigenous site; Viçosa de Tutóia indigenous village; Araiós, indigenous site; Amanajós indigenous site in the Pastos Bons parish; São Fetis indigenous site; Trizidela, indigenous site; São Mamede, site of bearded indigenous; São Miguel, indigenous site; Lapel inhabited by indigenous with ; Monção, indigenous village, Viana, white and indigenous village; São José de Penalva settlement trough; São João de Cortes, indigenous site; Guimarães, white and indigenous village. In Piauí: São José de Sende Gougués Indian site; Cajoeiro Jaicós and São Gonçalo Indian site, Acoroazi indigenous site, see *Mappa das cidades, vilas e lugares das capitanias do Maranhão e Piauí*, 1783, Rio de Janeiro, National Library, Cartography sector, ARC 023, 04, 013.

goes back to the year 1688, during the government of the first bishop, D. Fr. Gregório dos Anjos[14]. The administrative structure of the dioceses in the metropolis and colonies was articulated in three instances: the Ecclesiastical Chamber, the Ecclesiastical Court and the *Despacho das Visitações*. For this research, only the documents produced by the first two agencies are of interest, since a *Despacho das Visitações* was not established in Maranhão[15].

The Ecclesiastical Chamber, or Episcopal Board, handled the spiritual affairs of the diocesan government. The bishop chaired the body while a provisor and Chamber Clerk were its officers. It was responsible for matters related to priestly ordination and dispensations for marriage between relatives, in addition to other duties. The Ecclesiastical Court, for its part, had its own jurisdiction. It was headed by the bishop or his vicar-general and a group of other judicial agents provided support. The bishop held competency on both *ratione personae* and *ratione materiae* grounds. This gave him privileged jurisdiction over ecclesiastic officials and *ratione materiae* jurisdiction over anyone who engaged in unlawful behaviour[16].

Joaquim Ramos de Carvalho was a pioneer in addressing the need for research into the impact of episcopal jurisdiction on lay people. He emphasized, among other elements, "the capacity of the ecclesiastical officers of justice to gain knowledge of crimes committed by the laity when these take the form of public sins", the ability of the ecclesiastical courts to "subject these lay people to temporal penalties, such as fines, imprisonment and exile" and "the existence or lack of mechanisms for appealing the ecclesiastical court decisions", among others[17]. The scarcity of documents from most episcopal courts that operated in the dioceses of Portugal and its colonies represents a significant obstacle to better understanding their activity[18].

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[14] Public Archive of the State of Maranhão (hereafter APEM), Ecclesiastical Collection (hereafter EC), Livro de Provisões, 1740 to 1747, No. 82.

[15] Analyzing the diocese of Viseu, José Pedro Paiva clarifies that in addition to the regiments, little remains about the operation of the visitation order. It was the body that "dealt with the organization, routing, filing and inspection of matters related to pastoral visits". See José Pedro Paiva, *História da Diocese de Viseu,* Coimbra, Imprensa da Universidade de Coimbra, 2016, p. 211.

[16] Many other duties fell under the responsibility of the Episcopal Assembly. José Pedro Paiva enumerates them: authorizing the construction of private churches and chapels, issuing letters of healing, carrying out the examinations for new priests and assigning them parishes and other benefits, overseeing the selection process for the church provisions, checking the qualifications of applicants to the clergyman, examining and licensing confessors and preachers, approving the constitution and congregation statutes, verifying compliance with the and paschal communion regulations, founding new parishes, authorizing the transport of the remains of the deceased, issuing licenses for healers and for grade school teachers, issuing pastoral letters or other episcopal communications. See Paiva, *História da Diocese...*, *op. cit.*, p. 207.

[17] Joaquim Ramos de Carvalho, "A jurisdição episcopal sobre os leigos em matéria de pecados públicos: as visitas pastorais e o comportamento moral das populações portuguesas de Antigo Regime", em *Revista Portuguesa de História***,** tomo XXIV, Lisboa, 1990, p. 138.

[18] To learn more about the operations of episcopal courts see: Muniz, *Réus de Batina…*, *op. cit.*, 2017; Jaime Gouveia, "Episcopal Justice in a Time of Change: the Court of Portalegre, 1780-1835", in *Max Planck Institute for European Legal History research paper series*, No. 11, Frankfurt am Main, 2020. Available at http://ssrn.com/abstract=3619826 [Accessed: October 3, 2019].

The documentation on which the present investigation is based consists of the records of the bishopric of Maranhão between 1727 and 1799, divided in three collections of the Ecclesiastical Court - *Autos e Feitos de Denuncia e Queixa* (complaint proceedings and decrees); *Autos e Feitos de Libelo Crime* (criminal libel proceedings and decrees) and the *Livro de Registro de Denúncias* (complaint registry), as well as two collections of the Ecclesiastical Chamber, *Autos de Impedimento Matrimonial* (marriage impediment decrees) and *Habilitações de Genere* (background checks). Using these documental resources, the disciplinary actions of the bishopric on the laity will be qualitatively and quantitatively analysed, particularly the Indigenous and mixed-race groups who were denounced and prosecuted at the bishopric's headquarters, regardless the place of residence of the accused. Although documents lacking any ethnic markers of the accused are found in these collections, which may suggest that they were whites from the metropolis or born in the colonies, such documents will only be used when it is explicit in the documentation to avoid anachronisms[19].

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In Brazil, the current state of research on Indigenous history is very promising, but it has not always been this way. John Monteiro has argued that the great obstacle to full admission of Indigenous actors into Brazilian historiography seems to have been the resistance of historians who considered Indigenous history an exclusive subject for anthropologists[20]. Maria Regina Celestino de Almeida maintains that this silence in relation to Indigenous history has been changing in recent years, although more slowly than in other parts of America. According to her, the growing approximation between historians and anthropologists has led to new theoretical propositions that complicate concepts such as culture and ethnicity. They question long-standing dualisms such as unassimilated vs. assimilated Indians, cultural structures vs. historical process, and assimilation vs. resistance, giving way to a new perception of the contact and relations between the native people and the communities in their surroundings. Understanding

[19] Eduardo França Paiva clarifies that references to white skin colour are uncommon, despite the frequent mention of 'white men' and 'white people' in colonial documentation. See Paiva, *Dar nome ao novo...*, *op. cit.*, p. 157. In the Ecclesiastical Court proceedings, it was not common for this information to appear in the headings of the cases, unlike the other social categories. Only when white defendants presented a defence was the colour of their skin and quality of their ancestors ever mentioned, in many cases to emphasize their lack of or low degree of relation with the people born in or around the colony. This was the case of the sisters D. Ana and D. Maria Garcês accused of cohabitation with the priest João Antonio Baldez in 1764. In addition to their evident "quality" as "owners", the accused sisters and priest invoked their Portuguese "mainland" ancestry to disallow the testimonies that accused them. See Muniz, *Réus de Batina…*, *op. cit.*, pp. 116-118.

[20] John Monteiro, *Tupis, Tapuias e historiadores: Estudos de história indígena e do indigenismo*, Campinas, UNICAMP, 2001, p. 4.

the native people as historical subjects allows greater insight into the interests that drove them and the survival strategies they employed in highly varied situations[21].

The Indigenous people of the Portuguese Amazon have been studied in relation to several different themes, such as slavery and labour, conversion to Christianity and their relations with missionaries, the legislative framework, and their relationship to settlers, among others[22]. This research makes it possible to expand the field of analysis by proposing a new line of research that examines the treatment of Indigenous and other non-white populations in the ecclesiastical justice proceedings of the Maranhão bishopric.

The Indigenous individuals that appear in the documentation presented in this research were not only the villagers under the direct spiritual and earthly supervision of the missionaries, notably the Jesuits[23]. They lived in the villages, on riverbanks and in other locations within the bishopric of Maranhão under any legal condition, as any other parishioner with the same obligations as other Catholics. They were to attend mass, receive the sacraments and, of course, follow the procedures required of everyone to, for example, enter into marriage. These individuals were denounced by relatives or neighbours for violating the rules imposed by the Church and, if found guilty, were subject to the punishments foreseen by the diocesan constitutions, in this case those of the Archbishopric of Bahia established in 1707.

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[21] Maria Regina Celestino Almeida, "Dossiê Os Índios na História", em *Tempo*, n.° 17, vol. 1, Rio de Janeiro, 2007, p. 9.

[22] See Rafael Chambouleyron. "The -Government of the Sertões and indigenous-", in *The Americas*, vol. 1, issue 1, Cambrigde, 2020, pp. 3-39; Rafael Chambouleyron, Karl Arenz and Vanice Melo, "Ruralidades indígenas na Amazônia colonial", em *Boletim do Museu Paraense Emílio Goeldi*, vol. 15, n.° 1, Belém, 2020, pp. 1-22; Rafael Chambouleyron et Karl Arenz, "Indiens ou Noire, libres ou esclaves: travail et métissage en Amazonie portugaise (XVII[e] et XVIII[e] siècles)", en *Caravelle*, n.° 107, vol. 2, Toulouse, 2016, pp. 15-29; Karl Arenz y Federic Matos, "'Fazer sair das selvas': índios e missionários na Amazônia (século XVII)", em *Boletim Tempo Presente*, n.° 10, Rio de Janeiro, 2015, pp. 1-24; Karl Arenz, "Além das doutrinas e rotinas: índios e missionários nos aldeamentos jesuíticos da Amazônia portuguesa (séculos XVII-XVIII)", em *Revista História e Cultura*, n.° 2, vol. 3, Franca, 2014, pp. 63-88; Almir Carvalho Júnior, *Índios Cristãos, A Conversão dos Gentios na Amazônia Portuguesa (1653-1769),* Doctorate in History, Campinas, Universidade Estadual de Campinas, 2005; Márcia Eliane Mello, *Fé e Império. As Juntas das Missões nas conquistas portuguesas,* Manaus, EDUAM, 2009; André Luís Ferreira, *Nas malhas das liberdades: o Tribunal da Junta das Missões e o governo dos índios na Capitania do Maranhão (1720-1757)*, Master's thesis, Belém, Universidade Federal do Pará, 2017; Patricia Sampaio, "'Vossa Excelência mandará o que for servido...': políticas indígenas e indigenistas na Amazônia Portuguesa do final do século XVIII", em *Tempo*, n.° 27, vol. 12, Niterói, 2007, pp. 39-55; Rafael Ale Rocha, "Os aruã: políticas indígenas e políticas indigenistas na Amazônia Portuguesa (século XVII)", em *Revista Brasileira de História & Ciências Sociais*, n.° 19, vol. 10, Porto Alegre, 2018, pp. 72-93, among others.

[23] Indigenous people displaced from their home communities to the so-called *aldeamentos* worked part time for their own maintenance and part time at the service residents, missionaries or public works for a salary stipulated by law and administered by local religious and native authorities. See Camila Loureiro Dias, "Os índios, a Amazônia e os conceitos de escravidão e liberdade", em *Estudos avançados*, n.° 97, vol. 33, São Paulo, dezembro 2019, p. 240. In the *aldeias* (indigenous villages), the regular clergy was responsible for the spiritual and earthly administration of the majority of the indigenous population, in accordance with several provisions established by the Portuguese Crown. On the subject, see Carvalho Júnior, *Índios Cristãos...*, *op. cit.*, 2005.

The line of research is relatively new. Only Jaime Gouveia has studied the issue in the context of Portuguese America, specifically complaints filed against native Brazilians in two bishoprics, the one of Rio de Janeiro and the one of Mariana in the state of Minas Gerais[24]. Another study by historian Maria Leônia Chaves de Resende addressed the deviant behaviour of Christian natives in Minas Gerais described by priests on official visits in the *Visitas Pastorais* records (Pastoral Visits) during the 18th century[25]. Her analysis of daily life and the transgressions reported map out the Indigenous people's interactions with and adaptations to the colonial order and Catholicism.

Studies focused on Hispanic America also examine the structure and functioning of ecclesiastical justice, including measures to control Indigenous populations. Lacking is any comparative study with the Portuguese colonies, but a significant difference to note is that, unlike Spain and its territories, Portugal did not implement an exclusive, uniform law for the treatment of the Indigenous people[26]. Moreover, ecclesiastical courts in Hispanic America exercised jurisdiction over crimes of heresy, as "bishops have achieved private jurisdiction over that section of the population"[27]. In Portuguese America, although bishops were never denied the power to judge Indigenous individuals accused of mixed offenses, it appears that they had little capacity or interest in doing so, preferring to defer the prosecution of such crimes to officials of the Inquisition[28]. The proceedings under analysis here therefore will not deal with cases of heresy, but only with other behaviours proscribed by the Church, especially regarding the moral and sexual behaviour of that community.

Current interpretations of Indigenous identity consider it through contrasts and dialogical dynamics. If Europeans invented the "Indigenous" identity, the countless and distinct populations that came into contact with it and into which they were forced to conform appropriated it in their own particular ways. The "Indians" thus attained "concrete existence" through the invented category and began responding to and even appropriating the label for themselves. Indigenous people not only incorporated this new

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[24] See Jaime Ricardo Gouveia, "*Ubi Societas Ibi Ius*. Os indígenas nos auditórios eclesiásticos do espaço luso-americano", em Ângela Domingues, Maria Leônia Chaves de Resende and Pedro Cardim (orgs.), *Os Indígenas e as Justiças no Mundo Ibero-Americano (Sécs. XVI-XIX)*, Lisboa, Centro de História da Universidade de LisboaCHAM - Centro de Humanidades (NOVA FCSH-UAc) PPGH/UFSJ - Programa de Pós-Graduação em História/Universidade Federal de São João del-Rei, 2019, pp. 191-216.

[25] See Maria Leônia Chaves de Resende, "Devassa da vida privada dos índios coloniais nas vilas de El Rei", em *Estudos Ibero-Americanos,* n.° 2, vol. XXX, Porto Alegre, 2004, pp. 49-66.

[26] See Ana de Zaballa Beascoechea y Jorge E. Traslosheros (coords), *Los indios ante los foros de justicia religiosa en la hispanoamérica virreinal*, México, Universidad autónoma de México, Instituto de Investigaciones Históricas, 2019. Available at https://historicas.unam.mx/publicaciones/publicadigital/libros/519/indios_justicia.html [Accessed: June 6, 2022].

[27] See Gouveia, *Ubi Societas Ibi Ius…*, *op. cit.*, pp. 191-216.

[28] See José Pedro Paiva, *Baluartes da fé e da disciplina: o enlace entre a Inquisição e os bispos em Portugal (1536-1750)*, Coimbra, Impressa da Universidade de Coimbra, 2011, pp. 46-54.

organizing element into their vision of colonial society, but they also used it to affirm their difference with those with whom they were forced to coexist[29].

European Catholicism and the consequent attempt to count these Indigenous and mixed-race populations as Christians is a component of the contact between the colonizers and colonized that was not only biological, but also cultural. Being considered "Christian" was of crucial importance to these Indigenous communities, but not only for them[30]. The other mixed-race groups that made up this complex social fabric were also inserted and appropriated in this Christian cultural universe in different ways. As Christians, they enjoyed certain rights and were obliged to respect certain duties. Holy matrimony, the status conferred by being married in a church, was one of the elements of Catholicism that many of these individuals desired. Notwithstanding this desire, many were prevented from doing so for failure to respect the normative regulations.

The Church's rules established sixteen grounds for denying someone the right to enter into matrimony. Two of them precluded any future marriage while fourteen, in addition to prohibiting marriage in the future, also annulled any marriage already celebrated[31]. The *Autos de Impedimento Matrimonial* (marriage impediment decrees) were the documentary collection of the Ecclesiastical Chamber comprised of court procedures related to the requirements for entering holy matrimony. These documents provide information that affords an analysis of the types of obstacles that prevented lay people in the bishopric of Maranhão from marrying in the Church. The present research focuses on the records from 1742 to 1801, a total of seventy-six documents of which 13 (17.1% of the total) refer to Indians or mixed-race[32]. The figure is not insignificant given the considerable cost of church marriage that made it relatively inaccessible to Indigenous and mixed-race groups during the colonial period[33].

The oldest marital proceeding in the series involving Indigenous parties refers to a 1745 case against two freed Indians, Jerônima Correa and Francisco Rodrigues, who lived in the Monin region. When they attempted to celebrate their marriage in that parish, Jerônima's grandmother Vitória objected, claiming that her granddaughter was promised to another man and that the banns of marriage had already been posted in another parish south of the bishopric. Jerônima Correa was to marry her older sister's brother-in-law in accordance with her grandmother and her parents' wishes. A letter from the year 1743 was used to confirm that the banns of marriage had already been posted.

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[29] See Carvalho Júnior, *Índios Cristãos...*, *op. cit.*, p. 78.
[30] *Ibid.*
[31] See Sebastião Monteiro da Vide, *Constituições Primeiras do Arcebispado da Bahia*, Bruno Feitler and Evergton Sales Souza estudo introdutório e edição, São Paulo, EDUSP, 2010, pp. 249-252.
[32] There are two boxes of manuscripts referring to the 18th century. APEM, EC, Autos de Impedimento, 1742 to 1801, boxes 140 e 141. Some of these processes have been analyzed by Luana Maria Leitão, *Os índios e o matrimônio: o ideal tridentino e o cotidiano indígena no Maranhão colonial*, Graduation in History, São Luís, Federal University of Maranhão, 2015.
[33] See Ronaldo Vainfas, *Casamento, amor e desejo no Ocidente Cristão*, São Paulo, Ática, 1996.

Jerônima's indigenous ancestry was emphasized by her own grandmother "who came from the backwood" and was a "poor old Black woman"[34]. She went to great lengths to separate Jerônima Correa and Francisco Rodrigues, even inducing an abortion, for she had become pregnant in the meantime, by taking "precautions using various medicaments so that the creature would not come to light". The use of plants whose medicinal qualities the Indigenous people had mastered were used to interrupt the pregnancy, and then the family intervened to prevent the marriage, claiming that they knew what was best for their children[35]. The young couple eventually managed to overcome the legal challenge. They were released from the impediment decree and granted permission to marry in 1746. The provisor João Rodrigues Covette, who also served as vicar-general, ordered the bride's grandmother to pay the pertinent court costs[36].

In a 1790 case, a *mulatto* named Cazimiro, slave of Inácio Xavier in the parish of Pastos Bons, was ruled ineligible to marry because of kinship. He married an Indigenous woman named Inês although he had already been sexually involved with the bride's cousins and sister. What draws attention to this case is the sentence of the provisor and vicar general João Maria da Luz Costa. Luz Costa concludes that they were prevented from marrying because the "impediments are decisive in first degree, and triplicate in the second degree of kinship, born from the illicit copulation between Cazimiro and the bride's cousins and sister". The provisor maintained that this was usual "in people as miserable, easy and suspicious" as "Indians", but decided not to annul the marriage between Cazimiro and Inês because it was celebrated "in good faith before the impediment decree had been duly processed". For that reason, he decided to "treat them with kindness", dismissing "the above-mentioned second-degree and the first-degree disqualifications out of precaution for reasonable doubt"[37]. The couple, however, was ordered to revalidate "the sacrament in the presence of the parish priest or another priest" and perform the following penances: "they will fast five days, in which they will say fifteen rosaries, they will attend Mass when it is given, volunteer in the church in some necessary service, sweeping it, cleaning the churchyard, and will go to confession"[38].

The penalties established by the Constitutions of the Archbishopric of Bahia in cases like this one included excommunication, imprisonment and a fine of fifty *cruzados*[39]. The provisor and vicar-general, however, was much more benevolent. He ordered the couple to renew their marriage vows before the parish priest and do penance by cleaning and attending Church. The fact that the defendants were indigenous captives was undoubtedly decisive in this regard. Justice under the *Ancien Regime*, and ecclesiastical

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[34] APEM, EC, Autos de Impedimento, 1745, doc. 4537, s/f.
[35] *Ibid*.
[36] *Ibid*.
[37] APEM, EC, Autos de Impedimento, 1790, doc. 4597, fs. 8-8v.
[38] *Ibid*.
[39] See Vide, *Constituições Primeiras...*, *op. cit.*, p. 256.

justice was no exception, took social status and bloodlines into account when passing judgment and handing down sanctions[40].

The Indian category appears in documents through the end of the 18th century. In 1799, for example, a complaint was filed against the Indigenous woman Antônia Faustina who wanted to marry Luis Torquato because she had lived with her cousin, an Indigenous man named Antônio da Cunha. The plaintiffs stated that Antônio had been seen "intimate in the woods with Faustina"[41]. Both denied the accusations and Faustina testified that "she never had an illicit copulation with Antônio da Cunha" and "she always lived with honour in her mother's and grandparents' houses and that no reason for complaint had ever been found"[42]. Witnesses said that although they had heard rumours about the relationship between the two cousins, they could not affirm whether the accusation was true or false. The provisor and vicar general Antônio Coelho Zuzarte decided that the couple could purge the complaint but would have to pay the court costs.

The matrimonial proceedings before the Ecclesiastical Chamber demonstrate that some indigenous individuals sought integration into the moral world constructed and controlled by the colonizer. Marriage is only one side of this integration, it also had social value and, as Ronaldo Vainfas points out, it represented an ideal to follow, for it could bring status and social ascension to those who attained it[43]. Indigenous interpretations and appropriations of Catholic marriage did not, however, exclude their cultural construction and respective indigenous identity. Relationships considered incestuous and forbidden by the Catholic Church following the Council of Trent were not always understood as prohibited in the interpretation of Indigenous people. Complaints based on sexual relations between relatives, whether by blood or by marriage, were common.

Records involving Indians and mixed-race did not only appear in the documentation related to applications for marriage. In a society with a high degree of miscegenation, it was not uncommon to find indigenous ancestry when investigating men who wished to enter the priesthood. The *Habilitações de Genere* (background checks) were the documents of the Ecclesiastical Chamber pertaining to the investigation of the "quality" and family ancestry of individuals. Indigenous descent was mentioned in some of these proceedings, as in the case of José Francisco da Silva, who was part *mameluco* (mixed-race) on his mother's side, or of Manoel Rebelo, whose maternal grandmother was either Black or *mameluca*. Notwithstanding, both were deemed fit to serve as men of the cloth without major hindrances[44].

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[40] See Pollyanna Gouveia Mendonça, "Uma questão de qualidade: Justiça Eclesiástica e clivagens sociais no Maranhão colonial", em Célia Tavares and Rogério Ribas (eds.), *Hierarquias, raça e mobilidade social: Portugal, Brasil e o Império colonial português, séc XVI-XVIII*, São Paulo, Alameda, 2010, pp. 15-31.

[41] APEM, EC, Autos de Impedimento, 1799, doc. 4605, fs. 9-9v.

[42] *Op. cit.*, fs. 7v-8.

[43] See Ronaldo Vainfas, *Trópico dos Pecados. Moral, sexualidade e Inquisição no Brasil*, Rio de Janeiro, Nova Froteira, 1999, p. 101.

[44] APEM, EC, Habilitações de Genere, 1731 to 1742, box 42, docs. 1544 and 1564, respectively.

As for Domingos Barbosa, many witnesses testified to his "blood of the land" in his 1741 *genere* proceeding. His grandfather, Domingos Alves Ribeiro was *mameluco* in the second degree and the grandparents of his maternal grandmother "were *mameluco* in their entirety". Thus, categorized as "*mameluco* in the fifth degree", Domingos was admitted into the priesthood without the bishop's license, as the judge of final instance determined that the defendant's ancestral defect should be ignored because it was "remote"[45].

Native ancestry was less serious than other "defects", as demonstrated by José de Abreu Carvalho's *genere* record from 1742. Witnesses testified that he had mulatto ancestry and that his maternal grandmother Maria Correira, "had some blood of people from the land". Carvalho's bloodline did not require him to obtain the bishop's dispensation, however. The problem was that José's parents had not married, so he was an illegitimate child. The "blood defect" was suppressed, he was given a dispensation from illegitimacy, and was eventually ordained[46].

Manoel de Sousa's qualification process is the most complex of the collection and deserves special attention. He was accused "of having a mulatto maternal grandmother" who was "the daughter of a legitimate Black woman and a legitimate white man"[47]. Manoel's defense involved an intense legal argument that referred to treaties. Because he was accused of *mulatismo* (mulatto ancestry), which included indigenous ancestry, the defendant referred to the work *De Indiarum Iure* by the Spanish jurist Juan de Solórzano Pereira. The reference was used to argue that, despite the 'barbaric and unfaithful' nature of the Indigenous and mixed-race, following the Spanish jurist, ancestry did not necessarily represent a bar to entering the priesthood. The discussions of Juan de Solórzano's *Derecho Indiano* were the only references to Indigenous rights that appeared in the records of the episcopal court of Maranhão, which is noteworthy because no specific legislation in the area existed in Portuguese Law.

Manoel de Sousa devised an entire taxonomy to demonstrate that his "blood defect" should not prevent him from attaining the priesthood. He claimed that his "mulatto or *mestiza* grandmother" was always "mixing the descendants with legitimate whites" and that he was "a subject of whom nothing impeded ecclesiastical dignity", because "the mixture of this mulatto with pure white constitutes only one part mulatto, so he is an individual that is three parts white and only one Black"[48]. Manoel de Sousa was given

[45] APEM, EC, Habilitações de Genere, 1741, doc. 1566.
[46] APEM, EC, Habilitações de Genere, 1742, doc. 1579.
[47] APEM, EC, Habilitações de Genere, 1740, doc. 1553, s/f.
[48] *Ibid.*

dispensation for his "blood defect" by Bishop D. Manoel da Cruz, on June 15, 1740[49]. He received his minor orders on May 6, 1741 and was ordained the same year[50].

The *autos de impedimento* (impediment decrees) and *habilitações de genere*, as mentioned, were processed by the Ecclesiastical Chamber of the bishopric responsible for investigating, among other things, cases related to marriage and priestly ordination. At the Ecclesiastical Court, however, Indigenous, Blacks and a diverse range of mixed-race were the object of summary judgments and longer trials where the defendants' right to defence was respected. We will discuss here the data from three documentary collections. The *Autos de Denúncia e Queixa* (complaint proceedings and decrees) collection contains a total of fifty-nine cases from 1727 to 1799. In this set, forty-one records involve parties whose ethnicity is not defined or mentioned, so therefore 69.5% of the records cannot be categorized.

The indigenous category appears in eight cases representing 13.6% of the total. There is also one record (1.69%) involving a Black defendant, two cases (3.39%) in which the defendants were generally categorized as slaves, two cases (3.39%) involving *cafuzos* (people with one Amerindian and one Black parent), one (1.69%) against a woman described as a "servant", two (3.39%) records against mulattos, one case (1.69%) of a *mameluca* and, finally, one case (1.69%) in which the defendant is categorized as "white", as can be detected in Table 1.

Table 1

Quantitative data by ethnic classification or legal condition - Serie Autos e Feitos de Denúncia e Queixa (Complaint Proceedings and Decrees) (1727-1799)

Complaint Proceedings and Decrees	
Unidentified	41
Indian	8
Slave	2
Cafuzo	2
Mulatto	2
Black	1
Servant	1
Mameluco	1
White	1

Source: Elaborated from the processes Autos e Feitos de Denúncia e Queixa (Complaint Proceedings and Decrees), Public Archive of the State of Maranhão, Ecclesiastic Collection, 1727 to 1799, boxes 21 to 23.

[49] D. Manuel da Cruz governed the bishopric of Maranhão between 1738 and 1745. Unlike the other bishops of Maranhão who appointed officials of the ecclesiastical government for more than one function, the government of D. Manuel da Cruz appointed a Judge of the Qualifications of Genere who exclusively performed this function, Father Filipe Camelo de Brito. See Muniz, *Réus de Batina…*, *op. cit.*, p. 48. Kate Soares examined the qualifications of that period when analyzing the government of that bishop. See Kate Soares, "Aspectos do governo episcopal de Dom Frei Manuel da Cruz no Bispado do Maranhão", Master in History, Niteroi, Federal Fluminense University, 2015.

[50] APEM, EC, Livro de Ordenações, 18th Century, No. 175, s/f.

It is important to point out that the majority of ethnically identified respondents consist of Indians and mixed-race of probable indigenous ancestry. This is backed by the constant reference that the 1755 law on the freedom of the Indians made to *cafuzos* and *mamelucos*. Patricia Melo de Sampaio clarifies that although the law dates from June 6, 1755, it was unknown in the region until two years later, when Mendonça Furtado decided to publish the Indian's Directory in 1757[51]. The law has been sufficiently examined by experts, but it is relevant to this research project because it is cited in statements by defendants and witnesses, demonstrating the effect of the legal protections the law extended to Indigenous people on their willingness to disclose their native ancestry[52].

The records that identify only one defendant as Black and two only by their legal status as slaves represents an initial empirical foundation for the thesis that Africans and the enslaved were less likely to be brought before the ecclesiastical justice system, a thesis that is confirmed in the other collections analysed. Again, it should be remembered that Black was used synonymously with slave[53]. Their relative absence in the documentation is perhaps explained by the small number of complaints involving them, which does not, however, imply that the ecclesiastical authorities were unconcerned with repressing transgressions they might commit. The population of Africans in Maranhão increased in the second half of the 18th century, but the documents consulted in this research do not enable a reliable assessment of the impact of the rise in their numbers[54]. The sole accusation against a defendant identified as Black in this series provides an example. The lawsuit was brought against Manoel de Abreu Lima in Sorubim, Piauí in 1751, after he invaded a church with his slaves to arrest a Black man, Apolinário. One of the witnesses testified that a Black man named Antonio had participated in the invasion and thus Antonio became a defendant in the proceeding. Found guilty of the charge of invading the sanctity of the church, he and Manoel de Abreu Lima were excommunicated for the crime of sacrilege[55].

Most complaints, however, involved the cohabitation of couples not legally married. Many couples who lived far from settlements were even denounced. Faustino Garcia and the native Porcina, for example, were prosecuted in 1759 after a complaint filed

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[51] The author also offers a commentary on Marquis of Pombal's measures for the region and the growing role of African labour after the creation of the *Companhia de Comércio*. See Patricia Melo Sampaio, *Espelhos Partidos: etnia, legislação e desigualdade na Colônia*, Manaus, EDUAM, 2011.

[52] In the same year, 1755, another license with force of law abolished the earthly administration of regular ecclesiastics over the Indigenous. The said law abolished the administrative power of the missionaries over Indigenous *aldeamentos* (villages). See Agostinho Malheiros, *A Escravidão no Brasil. ensaio histórico-jurídico-social*, Petrópolis, Vozes, 1944, p. 282.

[53] On "Black" as a synonym for slave, see Paiva, *Dar nome ao novo...*, *op. cit.*, pp. 199-221 e Silvia Lara, *Fragmentos setecentistas: escravidão, cultura e poder na América Portuguesa*, São Paulo, Companhia das Letras, 2007, pp. 132-135.

[54] See Antonia da Silva Mota and Maísa Faleiros da Cunha, "No âmago da africanização: pessoas negras e de cor nos mapas populacionais do Maranhão colonial (1798-1821)", em *Revista brasileira de estudos das populações*, n.° 3, vol. 34, São Paulo, 2017, pp. 465-484.

[55] APEM, EC, Autos e Feitos de Denúncia e Queixa, 1751, doc. 906.

by the bishop's prosecutor. They were parishioners in the village of Tapuitapera, four leagues (almost fourteen miles) from the bishopric headquarters. Although they lived on the Tupuimunducaba estate, there were not outside the surveillance of episcopal justice[56]. The witnesses in the case testified that the couple had a stable relationship that had been going on for a decade[57].

In 1781, accusations of cohabitation were lodged against two couples from Itapecuru: Faustino José Frazão and the native Catarina, who had children together and shared the same house, and Antonio José da Costa and the Indigenous Apolónia, who had also lived together for an extended period[58]. The defendants did not testify. They were ordered to sign papers to make their relationships official and end the scandal, pay a fine and then report to the vicar-general at the bishopric headquarters, a considerable journey of twenty leagues.

The denunciations came from all corners of the bishopric, which is evidence of the diocesan network's increasing articulation over the 18th century and, above all, its corresponding ability to locate and punish people accused of offenses in any part of the diocese. In 1757, for example, Domingos Barbosa, a Portuguese colonist, and Tereza, described as a servant of João Simões, were prosecuted for having lived together for more than ten years on the Mearim River, forty leagues from São Luís[59]. In 1763, Antonio José de Oliveira and a native woman named Joana Batista were also denounced for cohabitation. She was officially a resident of Paço do Lumiar, but actually spent most of the time in Vila de São José with her lover, where they were denounced. Neither "Indian village" was far from São Luís[60].

Finally, the case against Maurício Ferreira da Nóbrega and Romana Pereira deserves special attention. They were denounced in 1752 because "with boldness, contempt and deceit of Justice and its ministers" they had forged their marriage certificate. Maurício Ferreira da Nóbrega was a resident of São Luís and Romana Pereira was from the Icatú village 25 leagues away. The defendant was described as a slave whose freedom was in litigation[61]. The couple had been unable to marry in either São Luís or Icatú so decided to attempt it in Mearim. Maurício Ferreira da Nóbrega was accused of altering "the words where [the marriage certificate] said *Icatu, villa* [village] and *escravo* [slave]", inserting in their places "Miarim, Ribeyra and another word that can be barely read". After they were married, they were reported to the Ecclesiastical Court and the marriage

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[56] The distance in leagues from the bishopric seat mentioned from this note is based on *Mappa das cidades, villas, lugares e freguezias das Capitanias do Maranhão*. Rio de Janeiro, National Library, Cartography sector, ARC 023, 04, 013.

[57] APEM, EC, Autos e Feitos de Denúncia e Queixa, 1759, doc. 923.

[58] APEM, EC, Autos e Feitos de Denúncia e Queixa, 1781, doc. 935 and 936, respectively.

[59] APEM, EC, Autos e Feitos de Denúncia e Queixa, 1757, doc. 913.

[60] APEM, EC, Autos e Feitos de Denúncia e Queixa, 1763, doc. 927.

[61] André Luís Ferreira describes the saga of Mauricio and his family, all Indigenous, to end Joana da Assunção's captivity. Mauricio took the legal case for his family's freedom to D. José. See André Luís Ferreira, *Os versos que o livro...*, *op. cit.*, pp. 178-179.

certificate was analyzed. The examination found another alteration: the document "had a blot on the parts about freedom under litigation"[62]. The marriage was considered illegal since "the accused were living illegally, against what was provided in the Sacred Council of Trent and Bishopric Constitutions". The vicar general sentenced Maurício Ferreira da Nóbrega to prison [63].

The analysis of these documents demonstrates the vigilance of diocesan government officials. The court deployed a complex network to gather complaints from the defendants' neighbours and relatives. Despite the rural conditions and lack of restrictions on the couple's mobility, they were unable to escape the notice of the ecclesiastical officials. Investigations were carried out in all the parishes where the defendants had gone, which demonstrates, as I have argued, the level of penetration into the rural territory episcopal power attained. Because Maurício Ferreira da Nóbrega was a slave and his bride was free, the ecclesiastical authorities required testimony confirming her knowledge of the groom's captive condition. Romana Pereira was called to the parish priest and asked "if she was happy to marry Maurício Ferreira da Nóbrega, even though he was a slave"[64], to which she answered in the affirmative. The Constitutions of the Archbishopric of Bahia, it should be mentioned, stipulate this form of interrogation and testimony.

In fact, the role of the ecclesiastical legislation was fundamental in clarifying these issues. Charlotte de Castelnau-L'Estoile has shown that the Diocesan Synod that met to debate and produce the first Constitutions of the Archbishopric of Bahia established "that slaves can marry [this] is equivalent to saying that a Christian society is possible despite slavery"[65]. When the groom was a slave, however, in addition to the ecclesiastical authorities, a third actor was to be consulted about the marriage: the slave's master. Thus, the significance, again according to Charlotte de Castelnau-L'Estoile, of the stance of the Archbishopric of Bahia in favour of slaves' right to marriage, even if their masters were opposed to it[66]. Although the issue of Indigenous slavery falls outside the scope of this research project –mainly because slaves are rarely mentioned in these archives that predominantly concern complaints against free and freed people– the difference in access to the institution of marriage associated with captive status cannot be overlooked[67].

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[62] APEM, EC, Autos e Feitos de Denúncia e Queixa, 1752, doc. 907, s/f.
[63] *Ibid.*
[64] *Ibid*.
[65] See Charlotte de Castelanu-L'Estoile, "O ideal de uma sociedade escravista cristã: Direito canônico e matrimônio de escravos no Brasil colônia", em Bruno Feitler y Evergton Sales Souza (orgs.), *A Igreja no Brasil: normas e práticas durante a vigência das Constituições primeiras do arcebispado da Bahia*, São Paulo, 2011, pp. 355-398.
[66] See Titles 303, 304 and 989 of the Constitutions. On canonical doctrine and theology regarding slave marriage, see Castelnau-L'Estoile, "O ideal de uma sociedade…", *op. cit.*, pp. 370-374.
[67] Another example involving an Indigenous slave appeared in the divorce records. In 1741, "Juliana, freed indigenous woman" asked for separation from her husband João, a slave of Francisco Xavier Baldez. She claimed that her husband, being a slave, was obliged by the master to go to Pará, leaving her helpless. She confessed to having to prostitute herself to survive. When João returned to São Luís, he was angry to learn

Breaking down the types of offenses committed by Indigenous and mixed-race individuals in the collection of *Autos e Feitos de Denúncia e Queixa* (complaint proceedings and decrees) results in a total of ten cases of illicit cohabitation, one of adulterous cohabitation, one of incestuous cohabitation, one of forgery and one of sacrilege. Despite the small sample size, it is evident that moral and sexual deviations related to the sacrament of marriage received by far the greatest number of sanctions. Most of the penalties involved paternal admonition by the vicar-general, signing an official certificate recognizing the offense and repentance and paying a fine and the court costs, all as stipulated in the Diocesan Constitutions.

The shared aspect of these records that deserves the most attention is the lack of judicial differentiation or discretion in the proceedings based on the different racial or social statuses of the Indigenous and mixed-race defendants. It stands out that the same procedures were followed in similar cases whether the defendants were white or were not classified as mixed-race, as in the case of the complaint against João Vasco in 1758. Vasco was married and lived in Cumã, Alcântara. He was accused of "incest with his own legitimate daughter, being so scandalous [that he] was caught in an illegal act of copulation with her and the other younger daughter with whom he was committing similar crimes with public and notorious scandal". João Vasco was sentenced to exile to África and forced to leave on the first ship that docked in Maranhão[68].

The *Livro de Registro de Denúncias* (complaint registry) contains a total of sixty-three summary proceedings against clergy and laity from 1762-1782 as illustrated in Table 2. These records always followed the same format. The complaint was detailed, then six to nine witnesses were questioned, and then the vicar-general decided on the appropriate penalty. As can be seen from the Table 2, thirty-six of the sixty-three cases (57.14%) do not identify the ethnicity of the defendants. Eight, or 12.7%, indicate that they are "Indians". When indicated, the marker follows the name of the defendant. Nine records, or 14.29%, identify the defendant as *cafuzo*; one (1.59%) lawsuit denounces a *mameluco*; and two records (3.17%) identify the accused as "mulatto" with the qualification, "freed by the law", an evident allusion to the Indigenous freedom law of 1755. The *mameluco* marker appears in one case against a "*mameluca* Indian" and in two cases against women categorized as "mulatto *mamelucas*". There is also a complaint against a couple described only as a "slave" with a "freed woman." If we take into account that more than half of the cases did not mention the ethnicity of the defendants and that many involve complaints against Church officials, the numbers against mixed-race and Indigenous defendants seem telling.

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what she had done and threatened to kill her with knives several times. Juliana filed for divorce alleging danger to her life the outcome of the lawsuit is unknown, but the latest piece of information is that Juliana was sent to prison following the complaint of adultery filed by her husband. APEM, EC, Autos Cíveis de Libelo, 1741, doc. 4393.

[68] APEM, EC, Autos e Feitos de Denúncia e Queixa, 1758, doc. 918, f. 2.

TABLE 2
Quantitative data by ethnic classification or legal status - Livro de Registro de Denúncias (Complaint Registry) (1762-1782)

Complaint Registry (1762-1782)	
No identification markers	36
Cafuzos	9
Indian	8
Mulatto	2
Freed mulatto	2
Mulatto *mameluca*	2
Mameluco	1
Indian *mameluca*	1
Slave	1
Freed man or woman	1

Elaborated from the *Livro de Registro de Denúncias* (Complaint Registry), 1762 to 1782, Public Archive of the State of Maranhão, Ecclesiastic Collection, nº 212.

The variation of the lexicon for the classifications of *mameluco,* "mulatto *mameluca*" and "*mameluca* Indian" draws attention. Eduardo França Paiva warns of the dangers of misinterpreting the terms, concepts, and categories such as those mentioned above, given the unclear parameters for their application at the time and the compounded misunderstandings they might immediately generate, hindering the search for better knowledge about the complex, sociocultural reality of the historical period under study[69]. The ancestry of the defendants in question was Indigenous, but the use of more than one term to designate their Indigenous background must still be considered relevant. The choice of terminology may be related to phenotypic characteristics, skin colour or even legal status. The defendants themselves may have influenced the language used, particularly if they wanted to escape the stigma of captivity.

From this collection of records, the complaints that were made at Jussara farm on the outskirts of São Luís in 1767 are especially noteworthy because of the interesting dynamics behind the complaints. The first Indigenous couple denounced was Marcos Gomes Pais and Luzia Maria[70]. The bride had sexual relations with Marcos' brother, João Pais, and the couple was subsequently warned by another Indigenous man, Jerónimo da Costa, that this could be used to block her marriage. Despite their awareness of the *impedimento*, they went ahead and married in the church on August 6, 1767. All the

[69] See Eduardo França Paiva, "Escravo e mestiço: do que estamos efetivamente falando?", in Eduardo França Paiva, Manuel F. Fernández Chaves and Rafael M. Pérez García (orgs.), *De que estamos falando? Antigos conceitos e modernos anacronismos – escravidão e mestiçagens*, Rio de Janeiro, Garamond, 2016, pp. 57-82.
[70] Freemen and slaves were two ways of denoting Indigenous workers according to how they were incorporated into society and the nature of their relationship with the person in whose possession they were. Free and slave labour coexisted and complemented each other and did not engender opposition. See Camila Loureiro Dias, "Os índios, a Amazônia...", *op. cit.*, p. 246.

witnesses recorded in the proceedings were Indigenous. One stated that everyone on the farm knew about the illicit relations; but did not denounce them because they did not believe that Marcos Gomes Pais and Luzia Maria would go ahead with their wedding in the church[71].

Xavier Pais and Maria Agostina, another Indigenous couple on the same farm were denounced improper sexual relations in 1768. Maria's niece commented that the couple were the cause of "a great scandal all over the farm" and a brother of hers testified that their mother was not only against the relationship but "reprimanded her several times"[72]. Two other couples, José Alvares Torres and Arcângela, and Prudente Pais and Joana Tabaroa, were also denounced for illicit cohabitation at the same farm in 1768[73]. The testimonies of the relatives and neighbors in these proceedings involving Indigenous defendants show that the defendants were aware of their offenses and that the larger community apparently disapproved of them. Indigenous members of the Pais family were the focus of three of these four complaints and family members repeatedly gave depositions that related the daily lives of their relatives. Marcos Pais and Luzia Maria received the most serious sanctions, both were sentenced to prison. The other defendants were ordered to sign a certificate acknowledging the offense and pay court costs.

The offenses break down as follows: of the eight total "Indian" defendants, seven were accused of cohabitation and one of unlawful marriage. Of the nine complaints involving *cafuzo* defendants, six were for illicit cohabitation, one for unlawful marriage and two were for prostitution. The other cases –one involving a *mameluco*, defendant, two involving freed mulattos, one *mameluca* Indian, two mulatto *mameluca* women and the freed woman– also comprised allegations of illicit cohabitation. The overall figures for the data contained in the *Livro de Registro de Denúncias* (complaint registry) relating to Indigenous and mixed-race defendants totals twenty cases of illicit cohabitation, two cases of prostitution, and two cases of unlawful marriage.

Finally, the *Autos e Feitos de Libelo Crime* (criminal libel proceedings and decrees) form the most complex collection of the Ecclesiastical Court of the Maranhão bishopric. These proceedings took longer to conclude, as in addition to the depositions of witnesses called by the prosecution, the accused had the right to "combat accusatory defamation" by challenging the prosecutor's allegations with the help of lawyers or defence witnesses. This documentary collection contains forty-six criminal cases from the 18th century, twenty-one of which refer to complaints against priests and twenty-five against lay people. The records of the investigations carried out against priests do not indicate that any of them were Indigenous or mixed-race.

In this collection, there are no ethnic or "quality" markers for forty-one of the defendants, corresponding to 89% of the records. Although non-identification seems to

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[71] APEM, EC, Livro de Registro de Denúncias, 1767, n.° 212, fs. 192-195.
[72] *Op. cit.*, fs. 217-217v.
[73] *Op. cit.*, fs. 221-229.

suggest the defendants were white, as already mentioned the decision was made to base the present analysis only using records that contained explicit markers. The remaining five lawsuits included two against Indigenous defendants (4.3%) accused of incest and unlawful marriage; one against a "Black" woman accused of cohabitation and adultery; one against a *pardo* man for slander and one against a freed Black for the same offense.

Cirilo, servant of Captain José Machado de Miranda, was prosecuted in 1759 for committing incest with Maria, who was his wife Loureana's daughter. All three were categorized as Indigenous. The testimonies remarked the recurrence of the sexual relations he had with his stepdaughter. In his defense, Cirilo declared that he had only committed such acts after excessive consumption of alcoholic beverages. Cirilo was sentenced to prison for the crime[74]. Another example is the case against Victor, an Indigenous man "at the service of Ignacio Frazão", who had sexual relations with Inácia and Maria, mother and daughter. Despite his illicit relationship with her daughter, Victor and Inácia married each other. The court sought to annul the marriage, opening a criminal investigation against them in 1763. Victor confessed the crime and the vicar-general sentenced the couple to prison.

The lawsuit involving a Black woman defendant dates from 1742. The defendants, João Pereira de Lemos and his slave Monica, were accused of adultery. Lemos was married but, according to the depositions, he preferred living with his slave in the city while his wife remained at their home in the countryside. The couple allegedly had children, lived in the same house as husband and wife, and sent one of the children to school in São Luís, which may have been the affront that led the witnesses to report them[75].

The 1797 lawsuit against Escolástica, the freed Black, is particularly significant because it clarifies procedures when a slave initiated the lawsuit. Escolástica Maria was accused of slander for calling the Black woman Francisca Antonia Borges a thief in front of several people at the Ribeirão fountain in São Luís. Agricola Josefa da Graça, the plaintiff's owner, is a key factor in the complaint. At one point in the documentation, it is stated that "the defendant cannot yet deduct her right without the plaintiff's owner, until her head is worth enough to cover the court costs". Agricola Josefa da Graça sent her authorization to the Ecclesiastical Court granting the slave license "so that she can sue the freed Black Escolástica" adding that "she can do it in any court in the city". Although the proceedings are incomplete, it is possible to deduce that the prosecutor of the bishopric dismissed the crime of slander. He notes the lowly status of the women involved in the cause, arguing that "as the plaintiff was also a Black slave, there was no insult" because "slavery was enough for the person of the plaintiff to be considered villainous […] which was augmented by her being Black and as such for all the principles of vile and low condition"[76].

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[74] APEM, EC, Autos e Feitos de Libelo Crime, 1759, doc. 4234.
[75] APEM, EC, Autos e Feitos de Libelo Crime, 1742, doc. 4228.
[76] APEM, EC, Autos e Feitos de Libelo Crime, 1797, doc. 4261, fs. 6 and 9.

The "quality" and legal status of the two women involved in the dispute were used as grounds to dismiss the complaint. Both carried the mark of current or past slavery. Dismissal also occurred in other cases, especially when the legal or ethnic status of the plaintiff or witnesses was different from those they accused. When the defendant came from a social stratum considered superior to the social status of the person who reported it, the difference in status was invariably noted. An example in found in the lawsuit against the priest Francisco Antonio Gonçalves, who was accused of "dishonoring himself with a young man" in São Luís in 1799. The accusation was lodged by Indigenous and mixed-race plaintiffs. In his defence, the priest not only emphasized his family ancestry, but primarily stressed that his accusers were "all poor individuals and most were barefoot farm hands", "inveterate drunks" and "poor miserable Indians" who would do anything "for a cup of liquor". Francisco Antonio Gonçalves also argued that "American Indians should be asked with greater circumspection and probity than the residents of the province", and for that reason their testimony should be annulled[77]. And it was.

In 1797, the priest João Raimundo Pereira de Cáceres was accused of moving from the Monção village to the Viana village without authorization, where he administered the sacraments to the Indigenous inhabitants without teaching them Christian doctrine. Following the same logic as employed by Father Gonçalves, Pereira de Cáceres claimed in defence that his accusers were "thieving, drunk, mean and barbaric Indians who barely know if they are Christians", and "the Indigenous are comparable to Blacks or loutish and rude slaves and because they are so rustic they cannot believe in Christian doctrine however diligent their vicars are"[78].

The priest's position refers back to a common, long-standing argument that the ignorance of Indigenous people was incurable. It should be noted that both the priests' ideas and the argument run counter to the doctrine established by the papal bull *Sublimis Deus* of 1537. In it, Pope Paul III affirmed that the Indians were truly men and that they were not only able to understand the Catholic faith, but very much wanted to receive it[79]. By papal determination then, from that moment on natives and any other people were to be converted to the faith of Jesus Christ through the proclamation of the word of God. The recommendations of the papal bull were aligned with the arguments defended by Bartolomé de Las Casas. The Spanish Dominican advocated for, among other things, a project that would unite evangelization and justice such that the Indigenous people were free to accept or refuse the faith that was offered to them[80].

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[77] APEM, EC, Feitos Crimes de Apresentação, 1799, doc. 4679, fs. 18-18v. and 56v., respectively. There are other examples of the issue of quality as social divides in the Ecclesiastical Court of Maranhão. See Muniz, *Réus de Batina…*, *op. cit.*, pp. 111-124.

[78] APEM, EC, Autos e Feitos de Libelo Crime, 1797, doc. 4259, fs. 32v. and 20, respectively.

[79] Papal bull *Sublimes Deus*. Available at https://web.archive.org/web/20171227123459/https://www.nthurston.k12.wa.us/cms/lib/WA01001371/Centricity/Domain/747/SublimisDeusPopePaulIII.pdf [Accessed: November 9, 2018]

[80] See Frei Bartolomeu de Las Casas, *Único modo de atrair todos os povos à verdadeira* religião, Translation Noelia Gigli, Hélio Lucas, São Paulo, Paulus, 2005.

At the end of the 18th century in Maranhão, notwithstanding, the argument of Indigenous ignorance, as shown by the examples, still prevailed in courts. The examples suggest that the conception was broadly accepted in white society. Native, mixed-race, or Black identity was used to disqualify testimony from those groups. The most common use of such legal provisions was preventing the testimony of non-whites as evidence if the defendants were from higher social strata. Regarding the sanctions applied, when the parties to the case pertain to the same legal condition and similar ethnic profile, the penalties do not differ from those provided in the First Constitutions of the Archbishopric of Bahia. In the vast majority of cases, the ecclesiastical authorities demonstrate more interest in reconciling the offender's infraction than punishing it severely.

The detailed analysis of these three collections of legal makes it possible to conclude that the structure of the proceedings in the records involving Indigenous, Black, and mixed-race parties were generally simple. Most involved summary judgments concluded in a few days without protracted legal discussions or even legal representation. The reasoning behind the judgments was always firmly rooted in the Ecclesiastical Constitutions of the Archbishopric of Bahia. Even in the two libel cases against natives and mixed-race did not require very elaborate defence. The testimony of the witnesses, who were almost always other Indigenous and mixed-race individuals who knew the defendants and lived in their communities and the recommendation of the prosecution were sufficient, as was characteristic in such proceedings, before the vicar-general determined the specific sentence to be applied. Still the complaints, as in other cases involving lay Christians and Church officials, provide a wealth of details about the daily lives of the defendants as the accusations were often made by their relatives.

Conclusion

The diocesan documentation examined indicates that Indigenous and mixed-race individuals from various ethnic categories were active participants in the Christian life of communities in Maranhão. Many lay Christians were denounced by relatives and neighbours and punished for transgressions. The effectiveness of the ecclesiastical justice system's enforcement and background investigations to determine marriage eligibility prove that the social divide between the Indigenous, mixed-race and the other lay members of the Church was not insurmountable. If they were baptized, they were integrated into the mystical body of the faithful, treated as such, and thus expected to follow the dictates of Catholicism like any other Christian. The same held more or less true for the process of entering the priesthood. If the "blood defect" and the mixed-race or native relations were remote, candidates faced few obstacles in becoming men of the cloth, as shown by the documentation presented here.

Regarding the Indigenous population of Maranhão, although it is unlikely that all of them were proficient in the rules and behaviours that were required of them as members

of the Church, those whose cases were detailed in the documentation, who faced charges or gave depositions, demonstrated such knowledge. As Almir Diniz de Carvalho Junior has shown, "for the natives, being a Christian was a decision"[81]. In fact, many Indigenous people became Christian or assumed Christian identities in order to take part in the new order that colonial society brought with it. The bishopric records are proof that the Indigenous were not, as has long been believed, merely passive subjects who did nothing other than suffer what the colonizers imposed on them.

It was no different with mixed-race of various biological and cultural combinations. Many sought to be Christians to the measure they were able. Like the Indigenous, these mixed-race actively built social relationships. The desire to marry in the Church, for example, which is made manifest by the documentation examined, is unmistakable evidence. The proceedings stemming from the criminal complaints, however, are equally clarifying. They demonstrate that these *mamelucos*, *cafuzos*, mulattos and *pardos*, sought to experience Catholicism to the degree possible. When denounced, they presented what justification they had for their behaviour and, with a varying degree of awareness of the significance of the act, signed terms of amendment certifying their misdeed promising not to repeat it. In this there were not treated any differently from anyone who faced similar accusation, whether they were Church officials or other lay Christians.

Blacks appeared very little in the documents reviewed. The legal condition of slave was a fundamental criterion of those who faced charges or were involved in disputes. This apparent silence or gap in the documentation may signify more than disinterest or neglect on the part of the officers in charge of ecclesiastical justice towards these individuals. Rather than meaning that the ecclesiastical authorities were not concerned with infractions committed by Black members of the community, the community may not have reported them, among other possibilities. It is clear, in any case, that they appeared more rarely in the records, even when the defendants were from "low" social and ethnic strata. This may well be related to the dismal legal condition of enslaved people. Such deprivation of liberty and consequent limited access to justice may explain their absence in the documentation. "Slave" and "free African" were two other markers that also rarely appeared in these documents.

The more visible Indigenous and mixed-race members of that social fabric acted like other Catholics. When denounced, they demonstrated knowledge that their behaviour was wrong. The ecclesiastical authorities, on the other hand, did not make any alteration to procedural norms or the penalties prescribed for their infraction. Signs of differences in the "quality" of the legal treatment received are much more clearly seen when the legal dispute involves parties from different social strata.

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[81] See Carvalho Júnior, *Índios Cristãos...*, *op. cit.*, p. 6.

While true that the records predominantly involve summary judgments that were concluded more quickly and at lower cost for the defendant, they were nonetheless tried and punished according to the rules of the Diocesan Constitutions in force. On rare exceptions, and these were more related to economic conditions than to ethnic background, they were given alternative sanctions, such as an obligation to clean the church, as shown in one of the examples of the processes of unlawful marriage impediment that went before the Ecclesiastical Chamber. As a rule, the regulations put in place by the Diocesan Synod of Bahia were followed. Judging by the documentary record as a whole, the diocesan authorities favoured mercy and reintegration of prevaricators over punishment. Rehabilitating and preserving new Christians were of greater interest to the agents of episcopal power than excluding sinners. These Indigenous, Black, and mixed-race men and women were still considered members of the Lord's Church.