Jesuit Pragmatic Literature and Ecclesiastical Normativity in Portuguese America (16th–18th Centuries)

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1 Introduction

Studying the legal experience in colonial Brazil is not an easy task.¹ A legal culture strongly influenced by orality, a reduced sphere of institutionalised jurisdiction, the absence of formal juridical education and the prohibition of printing books and journals are some of the most remarkable difficulties a legal historian faces when dealing with this period. Despite the reduced number of written sources, in which the learned legal culture somehow materialised, the few available texts constitute a possible way for analysing this juridical experience.

To provide means for identifying how this erudite knowledge circulated in the colonial space is one of the purposes of this article. Ecclesiastical texts are probably the most useful sources in that respect, particularly the texts produced by the priests of the Society of Jesus, the strongest religious order active in Portuguese America.² Facing practical problems during the attempt of building a Christian society in the New World, the Jesuits had a relevant role in the shaping of the juridical framework of colonial Brazil. The writings to be analysed in this article were conceived to resolve practical problems: How can missionaries catechise the native population if they do not speak the same language? Which Christian values are essential for a neophyte to guide oneself in

- 1 Probably the best text about the elements of colonial law in Brazil is Hespanha, “Porque é que existe e em que é que consiste um direito colonial brasileiro”. See also Hespanha, “O ‘Direito de Índias’”.
- 2 Besides the Society of Jesus, other religious orders acted in Portuguese America but were less relevant, such as the Benedictines (1581), the Franciscans (1584), the Capuchins (1642, but there was a French Capuchin mission in Equinoctial France two decades before), the Carmelites (first half of the 17th century), the Oratorians and the Mercedarians (second half of the 17th century).

the social life? Who is obliged to provide spiritual instruction in that society? How can people deal with specific moral problems they were not used to?

Each of these questions constitute a topic of this chapter, which begins with a sketch of the particular background of colonial Brazil. Providing practical solutions for concrete problems is the structural concern these texts share, and that is the reason why catechisms, cases of conscience and sermons can be considered pragmatic sources, in the terms described by Thomas Duve's chapter in this book. In contrast to a form of knowledge structured only in a theoretical perspective, these texts used traditional forms and European learning in order to propose practical answers for questions with juridical relevance and to construct a normative order based on Christianity. These foundations were extremely important for a society where moral and juridical matters could not be neatly distinguished.

2 An Overview on Early Modern Portuguese America

During the first decades of the 16th century, in the wake of the first Portuguese expedition of 1500, the presence of Portuguese and other Europeans was minimal. The establishment of the hereditary captaincy system in 1534, by which the coastal area of Portuguese America was divided into a dozen territories that should be explored and occupied by noblemen who had received the donations, did not lead to an effective occupation of the continent. Previously adopted in smaller territories such as Madeira Island, in the Atlantic Coast of Africa, the hereditary captaincy system was a seigneurial regime in which many rights, especially jurisdictional rights, over a territory were donated by the king, mainly to a nobleman.³ As the results were not the expected ones, the Crown created royal captaincies in areas not effectively occupied by their donees (*donatários*) and founded the settlement of a General Government in Salvador da Bahia in 1549.⁴ The division of Portuguese America into two territories (the State of Brazil and, from 1619 on, the State of Maranhão, which was

3 An explanation of the juridical basis of the hereditary captaincy system can be found in Cabral, "Senhores e ouvidores de capitanias hereditárias".

4 The village of Salvador was located in an area donated in the previous decade to Francisco Pereira Coutinho, who failed in occupying it permanently. In 1548, the Crown bought the territory which became the location of the general administration of the colony. A few years later, in 1565, the same happened to an abandoned area donated in 1534 to Martin Afonso de Sousa: after the expulsion of the French, the Crown created the royal captaincy of Rio de Janeiro in this area.

renamed a couple of times in the following century) did not result in a massive occupation of these areas.

Different from what happened in some territories of Hispanic America, where cities like Mexico and Lima had a population that was compatible with big European cities,⁵ in Brazil the numbers were far more modest. According to estimations,⁶ only at the turn of the 17th century the first villages (Salvador and Recife) had populations over 10,000 people, not including slaves. Nevertheless, as time went by, the population increased quickly. Except for Vila Rica de Ouro Preto, the most important Brazilian urban area during the so called “gold cycle” in the beginning of the 18th century, all the other relevant villages and cities (Salvador, Recife, Rio de Janeiro, São Paulo, São Luís do Maranhão and Belém do Pará) were located on the seaside or near it.

Moreover, the presence of Portuguese officials was low in America, despite the progressive increase of nominations during the 18th century, as Nuno Camarinhas shows.⁷ Only at the end of the 17th century, the Crown introduced the appointment of first and second grade judges (*juízes de fora* and *ouvidores de comarcas*, respectively). Before, the litigation concerning civil matters was decided by the judges appointed by the donee of the hereditary captaincy⁸ (*ouvidores de capitania*) or, more often, by the ordinary judges (*juízes ordinários*) elected in municipal councils, who had no formal legal training and even were analphabets in many cases. Analphabetism was also frequent among the *ouvidores de capitanias*.⁹ The progressive increase of royal appointments by the Crown of judges with a law degree (*juízes letrados*) was part of a slow and gradual process of enlargement of the Crown jurisdiction, which did not mean the exclusion of the local jurisdiction. In 1609, the *Tribunal da Relação* of Bahia initiated its activities in Salvador da Bahia; due to the Dutch invasion, it was out of function between 1626 and 1652. One hundred years later, in 1751, a second court opened its doors in Rio de Janeiro.¹⁰ The existence of these

5 The case of the city of Mexico (with an estimated population size of around 200,000 people) is particular because of the structure that already existed when the Spaniards conquered Tenochtitlan in 1521.

6 Hallewell, *O livro no Brasil*, 833–835.

7 For an analysis of this process, see Camarinhas, “A administração da justiça em espaços coloniais”.

8 Cabral, “Senhores e ouvidores de capitanias hereditárias”, 106–112.

9 Saldanha, *As capitanias do Brasil*, 222–223.

10 About the courts (*Tribunais da Relação*) of Bahia and Rio de Janeiro, see Schwartz, *Sovereignty and society in Colonial Brazil*; Wehling and Wehling, *Direito e justiça no Brasil Colonial*.

courts¹¹ contributed to increase the areas covered by Portuguese law, but the impact seems to have been modest, with most of the conflicts being resolved in local jurisdiction.

Besides this reduced sphere of an erudite jurisdiction in Portuguese America, another important feature of the legal phenomenon in colonial Brazil was the absence of formal legal instruction. Since the first law schools were founded only in 1827 in São Paulo and Olinda, five years after Brazilian Independence, in early modern times no law degree could be earned in Portuguese America. The failed attempt to create a university in Brazil by request of the Municipal Council of Salvador da Bahia in 1663¹² proves that the Portuguese Crown did not intend to expand the number of universities both in the kingdom and overseas.¹³

In this context, it seems important to recognise the role of canon law and moral theology because of the notion of casuistry and the need of resolving social conflicts. As the presence of Crown officials was not high during the first centuries of the Portuguese occupation, the most relevant institution in that time was the Church; not only because of the clergymen, but also, and particularly, because of the missionaries. These matters probably influenced the local authorities, which were responsible for resolving the majority of the juridical conflicts in colonial Brazil, in a social reality quite close to Tamar Herzog's description of the juridical space of Quito during the 17th century.¹⁴ The notion of *arbitrium*¹⁵ explains how the *juízes ordinários* shaped their conviction with regard to the suitable justice for a specific case rather than the pure application of royal law. This rustic world, in a reference to what Hespanha calls "the reverse of the erudite",¹⁶ operated with a logic in which the learned knowledge was not applied directly.

11 Actually, there were four courts in colonial Brazil, if one includes the *Tribunais da Relação* of São Luís do Maranhão, founded in 1812, and Pernambuco, founded in 1820. However, their impact was much smaller in comparison with the other two tribunals.

12 The Municipal Council of Salvador tried to attribute the status of university to the Jesuit College of Arts located in that city, but the Crown denied the request. Leite, *História da Companhia de Jesus no Brasil*, vol. 7, 195–199; Silva, *Bahia, a corte da América*, 200–201.

13 Indeed, no university was founded in the Portuguese colonial empire during the Early Modern Age; with respect to mainland Portugal, Coimbra, founded in 1290, was the only university until the University of Évora was erected in 1559 and operated by the Society of Jesus.

14 Herzog, "Sobre la cultura jurídica en la América Colonial".

15 For the notion of *arbitrium* in the Early Modern Age, see Mecarelli, *Arbitrium*.

16 "As fronteiras do poder. O mundo dos rústicos" in Hespanha, *A ordem do mundo e o saber dos juristas*, 199–208.

3 Moral Theology, Conversion and the Linguistic Issue

From the elements described before, understanding the role of canon law and moral theology seems to be indispensable to the comprehension of the juridical phenomenon in Portuguese America. In this context, religious orders, particularly the Society of Jesus, were prominent. Since their arrival, in the same fleet of the first General-Governor Tomé de Sousa, in 1549, until their expulsion, in 1759, the Jesuits were responsible for the creation of spaces for intellectual activities through their colleges, by far the most relevant educational institutions until the first half of the 18th century. The three most important colleges, located in Salvador, Rio de Janeiro and São Luis do Maranhão, provided a liberal arts education deeply influenced by scholastic methodology, including primary instruction and the bachelor degrees of Arts, Philosophy and Theology, as well as professional formation.

The intention of these colleges was both to provide instruction and to catechise indigenous people; in this sense, the linguistic issue was relevant. While the classes at the colleges were held in Latin, the conversion activities predominantly used indigenous languages. Local canon law recognised the relevance of learning indigenous languages for conversion, as the III Provincial Council of Lima (1582–1583) literally enacted.¹⁷ Two influential works written in Spanish America about this issue, José de Acosta's *De procuranda indorum salute* and Alonso de la Peña Montenegro's *Itinerario para párrocos de indios*, also stress the necessity of learning the languages of indigenous people in order to use them as instruments of catechesis. Schlieben-Lange describes the Jesuit linguistic ability and refers to 58 languages learned by them only in South America¹⁸ – in Brazil, the two most important were the Tupi and the Kariri language.

As the first step to a successful conversion was to master the language, instruments such as grammar books were essential. Before the arrival of the

17 “Et quoniam ad Indorum salutem non solum rerum sententiarumq; consensus, sed ipsa etiam sermonis conformatio, plurimum confert, prohibet etiam praeteruersionem ipsius auctoritate factam, atq; editam, tam in precibus, rudimentisq; doctrinae Christianae, quam in catechismo in linguam Curquensem, vel in Aymaraycam, aliam traductionem, à quo quam fieri, vel aliter facta quem quam vti, atq; vt idem fructus ad caeteros etiam manet, qui diuerso à supradictis idiomate vtuntur, mandat Episcopis omnibus, vt in sua quisq; diocesi, quam primum curet catechismum eundem per idoneos, & pios interpretes in reliquas linguas suae dioceseos verti: eamque interpretationem ab Episcopo sic approbatam, ab omnibus sine controuersia recipi, non obstante qualibet contraria consuetudine”. *Concilium Limense*, 23–24.

18 Schlieben-Lange, “Missionarslinguistik in Lateinamerika”, 44–45.

Europeans, there was no homogeneity nor structured rules of the indigenous languages, whose syntactic and semantic standards were only established by missionaries. Standardisation, in this case, also means the creation of a language – systematised, taught and learned with the help of the Jesuits in Brazil.¹⁹ The “*lengua general*” was a homogeneous language based on common elements of diverse indigenous languages, an artificial creation by the religious orders that was to facilitate the contact with the indigenous people and their conversion. It contributed to a process of homogenisation of the indigenous people – or “tupization” (*Tupisierung*), in the words of Fernando Aymoré.²⁰ In Spanish America, the conscience of the relevance of the linguistic problem was so intense that the Crown created a specific office, the *lengua general*, to handle it,²¹ among other dispositions in the *Recopilación de leyes de los reynos de las Indias*.²² The linguistic policy and the standardised treatment in early colonial Brazil resulted in what John Monteiro described as the two generic categories of natives during the 16th century. The so-called Tupi group included all the tribes living on the Brazilian coast and those who had direct contact with Portuguese, Spaniards and French settlers; in comparison with the Tupi, the Tapuia, most of them unknown by the Portuguese, were less homogeneous and had different customs.²³

Since the foundation of the Jesuit Province of Brazil in the 1550s, some missionaries were in charge of mastering the indigenous languages. The pastoral works included the grammar of the Tupi language (e.g., *Arte de gramatica da lingoa mais usada na costa do Brasil*, 1595, by José de Anchieta), catechisms (e.g., *Catecismo na lingoa brasilica*, 1618, by Antônio de Araújo; *Catecismo da doutrina christaa na lingua brasilica da Nacao Kiriri*, 1698, by Luigi Vincenzo Mamiani della Rovere; and *Doutrina crista*, by José de Anchieta), dialogues (*Diálogo sobre a conversão do gentio*, 1556–1557, by Manuel da Nóbrega), and also plays and poems, e.g., those written by José de Anchieta. One can detect their pragmatic essence in realising that their main function was to provide

19 On Tupi as a ‘general language’ in Portuguese America, see Obermeier, “Die Jesuiten und die brasilianischen Indianersprachen”. About the *linguas generales* in Spanish-America, see Schlieben-Lange, “Missionarslinguistik in Lateinamerika”, 47–52.

20 Aymoré, *Die Jesuiten im kolonialen Brasilien*, 321.

21 In the *Recopilación de Leyes de Indias*, the office of *lengua general* is mentioned with respect to the indigenous population of Chile. *Recopilación de Leyes*, lib. 6, tit. 16, ley 8.

22 Two of these dispositions included in this *Recopilación* are particularly interesting: religious men who serve in *doctrinas* are obliged to know the indigenous language (lib. 1, tit. 15, ley 5), and a chair of “*lenguas de la tierra*” is to be established at the university of Mexico (lib. 1, tit. 22, ley 49).

23 Monteiro, *Negros da terra*, 19–20.

missionaries the adequate instruments for their spiritual and social activities, particularly conversion. Since most of the missionaries were ignorant of the indigenous languages, the manuals intended to supply this knowledge.²⁴ Within the Tridentine emphasis on confession, including the necessity to confess the sins individually and not in general,²⁵ it seemed obvious that the missionaries should be able to understand the indigenous languages, at least in an intermediary level.²⁶

Mastering the language was an important tool for the catechesis of indigenous people, but it did not guarantee that the missionaries achieved their goals. Many coeval authors commented that indigenous people in Brazil were easy to convert, but that it was extremely hard to keep them in the Christian faith.²⁷ According to Viveiros de Castro, these difficulties cannot be explained by a lack of curiosity for “the new”, but by the incapacity of being indelibly impressed by it:²⁸ for him, a reconstruction of what he called the memory and the traditions of these societies was necessary to understand some essential elements of their culture.²⁹ Thus, the ‘success’ of the conversion depended on many factors and not only on the initial contact with the new faith.

A process of a long and permanent education in Jesuit schools was one of the elements for creating a Christian society in Portuguese America in the context of the Counter-Reformation. Among the courses offered in the Jesuit colleges, the moral theology course was one of the most relevant. Its structure was, according to Serafim Leite, quite similar to the classical manuals

24 Fernandes, “Do manual de confessores ao guia de penitentes”, 48–49.

25 “Constat enim sacerdotes iudicium hoc incognita causa exercere non potuisse nec aequitatem quidem illos in poenis iniungendis servare potuisse si in genere dumtaxat et non potius in specie ac sigillatim sua ipsi peccata declarassent”. *Concilii Tridentini Canonibus et decretis insertae*, Sessio XIV, Doctrina de sanctissimis Penitentiae, et extremae Unctionis Sacramentis, cap. v. De confessione.

26 Among the three levels of knowledge, confessors were required to master at least the intermediary one, that is, the capacity of understanding and speaking a little bit the language in which the confession should happen. Castelnau-L'Étoile, *Operários de uma vinha estéril*, 176.

27 See, for instance, the famous fragment of the *Sermon of the Holy Spirit*, written in 1657 by Father António Vieira: “Há outras nações, pelo contrário – estas são as do Brasil – que recebem tudo o que lhes ensinam com grande docilidade e facilidade, sem argumentar, sem replicar, sem duvidar, sem resistir; mas são estátuas de murta que, em levantando a mão e a tesoura do jardineiro, logo perdem a nova figura, e tornam à bruteza antiga e natural, e a ser mato como dantes eram”.

28 “O mármore e a murta: sobre a inconstância da alma selvagem” in Viveiros de Castro, *A inconstância da alma selvagem e outros ensaios de antropologia*, 184.

29 Viveiros de Castro, *A inconstância da alma selvagem e outros ensaios de antropologia*, 181–264.

published in the 16th and 17th centuries. An overview on the tables of contents of Paul Laymann's *Theologia moralis*, one of most-used theological books in colonial Brazil, for example, shows that many juridical themes were discussed in the courses at the colleges, such as the notion of human law (lib. I, tract. IV), justice and law (lib. III, tract. I, cap. I), crimes (lib. III, tract. III, I), contractual obligations (lib. III, tract. III, III), testaments (lib. III, tract. V) and marriage (lib. III, tract. X). The same can be observed in Domingo de Soto's *De Justitia et jure*, whose influence in theological texts of the 16th century was also great: nature, the relation between human and divine law, distributive and commutative justice, murder and usury were treated in the first six books, all of them relevant in the reality of colonial Brazil. The focus of these courses was not only to present the theological discussions in the manuals and monographic books – indeed, a very relevant matter – but also, and probably primarily, to provide answers to concrete problems observed in a specific reality.³⁰ Therefore, discussions about catechesis, slavery and its theological consequences as well as the sacraments, particularly marriage in relation to indigenous people, were the most common matters.

The first generation of Jesuits in Brazil, who arrived in 1549, was entirely educated at Coimbra and Salamanca. In a few cases, they had close relations to prominent jurists of these universities, and two examples should be mentioned. Priest João de Azpilcueta (c. 1522–1557), Martín de Azpilcueta's (1492–1586) nephew, stayed in Brazil from 1549 until his death and was the first one to translate some catechetical instruments into Tupi language.³¹ Priest Manuel da Nóbrega (1517–1570), one of the most remarkable characters of the early Brazilian colonisation, was also Dr. Navarrus' disciple, and to him and to his nephew Azpilcueta dedicated his book *Relectio cap. ita quorundam de iudeis*.³² Azpilcueta's presence can be presumed not only by his influence as professor of most of the Jesuits and by the close relations with some of them – evident in a letter that Nóbrega wrote him (10/08/1549)³³ – but also because of

30 See Leite, *História da Companhia de Jesus no Brasil*, vol. 7, 175–189.

31 Serafim Leite mentioned the translations of catechetical instruments, such as an explanation on the creation of the world, the commandments, Our Father and a "general confession". Leite, *História da Companhia de Jesus no Brasil*, vol. 2, 546–547. Francisco González-Luis referred to a work entitled *Oraciones y Catequesis en la Lengua General del Brasil* and written by João de Azpilcueta, but there is no evidence of how precise this information is. González-Luis, "La Gramática de la lengua tupí de José de Anchieta", 231.

32 "Quaestiones item illae, quas per doctus Emanuel a Nobrega iam pridem a nobis laurca donatus religione, doctrina, & genere clarus, & Ioannes ab Azpilcueta meus ex fratre nepos carissimus ex Brasiliae [...]" Azpilcueta, *Relectio*, fol. VIr.

33 Leite, "Introdução Geral", 44–57.

the impact of the *Manual de confesores y penitentes* in Portuguese America. Nóbrega received the book, which is discussed in Manuela Bragagnolo's contribution for this volume, just in the beginning of 1550, among other books in a box sent from Portugal by the Portuguese provincial priest Simão Rodrigues (1510–1579),³⁴ and the text continued to be used in many other works produced in Brazil. The main concern of the book was the confession of a sin, which was part of the judgement of the conscience,³⁵ and the consequent attribution of a penance. In this perspective, Azpilcueta's work dealt with the following topics: confession as a judgement, the procedure adopted by the confessor, the Ten Commandments, the commandments of the Church,³⁶ the seven sacraments, the seven capital sins, the five exterior senses and the ecclesiastical censures (interdict and excommunication, as well as the suspension of clerics). All of these topics are present in the catechetical books produced in Brazil.

Canonists and theologians from Coimbra and Salamanca, such as Francisco Suárez and Luis de Molina, were some of the most quoted authors in the examined texts, probably because of their presence in the libraries of the Jesuit colleges. Reviewing documents of the 17th and 18th centuries, Serafim Leite affirms that the libraries of Maranhão and Pará totalled 12,000 volumes in the first half of the 18th century³⁷ – a very significant number even if we compare it with the presumed 15,000 volumes existing in Salvador by the time of the expulsion, in 1759.³⁸ In a region with a huge majority of analphabets, low-populated cities, no universities, printings presses or bookshops, these libraries belonged to the few spaces where one could find books related to the matters of interest of the Jesuit missions.³⁹

4 Brazilian Pragmatic Literature

Portuguese America was not an ideal place to produce formal legal knowledge. There is no doubt about the circulation of books in colonial Brazil, evidenced

34 Leite, "Introdução Geral", 47.

35 See Prodi, *Una storia della giustizia*, 297–306; Prosperi, *Tribunali della coscienza*, 213–548.

36 To attend mass on Sundays and on holy days, to fast in the prescribed days, to pay the tithes, to confess once a year and to receive the Holy Communion at Easter. See Azpilcueta, *Manual de confesores y penitentes*, 352–385.

37 Leite, *História da Companhia de Jesus no Brasil*, vol. 4, 289.

38 Leite, *História da Companhia de Jesus no Brasil*, vol. 5, 94.

39 For an overview on the Jesuit libraries in Portuguese America, see Rodrigues, "As 'livrarias' dos jesuítas no Brasil Colonial".

by studies on private libraries mentioned in testaments and criminal prosecutions as well as by research on inventories of religious libraries.⁴⁰ They highlight the presence of religious books and illustrate the strong censorship, imposed by the Crown, the Church and the Inquisition, and exercised in Brazil by Jesuit *visitadores*.⁴¹ Furthermore, the existence of texts considered inadequate, particularly during the 18th century, was a clear evidence of a clandestine circulation. Since the foundation of the *Real Mesa Censória* (Royal Censorship Board) in 1768, the Portuguese Crown centralised book censorship; every book required a license to be sent to Brazil because, unlike in Hispanic America,⁴² there was no institutional control in Portuguese America. Therefore, legally acquiring a book was difficult, expensive and extremely supervised, but it did not exclude the possibility of smuggling.⁴³

The reduced market of bookselling, the small number of readers, and especially the prohibition of printing presses contributed considerably to the limited scale of book circulation. Notwithstanding some attempts to operate during the 18th century, the ban of editorial activities in the case of António Isidoro da Fonseca, in 1747, exemplified the attitude of the Portuguese Crown against printing presses during the colonial age.⁴⁴ While in Mexico, for example, printers operated since 1539, and published even catechetical books in indigenous languages,⁴⁵ publishing in Portugal was the only option for those in Portuguese America who intended to print books.

The few printed sources used in this article appeared in Portugal, but the majority of texts concerned about the particularities of Brazilian cases of conscience were, by that time, manuscripts. This was especially due to the high costs of printing and, as concerned some sources, to the difficulties in reviewing the originals. Even the theses defended in the Jesuit colleges were published in Portugal,⁴⁶ but, because of very low print runs, the few extant

40 Moraes, *Livros e bibliotecas no Brasil Colonial*; Lessa, "As bibliotecas brasileiras dos tempos coloniais"; Pereira, "O livro e a biblioteca nas mudanças no Brasil Colônia".

41 González Sánchez, "La cultura escrita en el Mundo Atlántico colonial: Brasil y América del norte".

42 Rueda Ramírez, *Negocio e intercambio cultural*.

43 Silva, "O comércio de livros de Portugal para o Brasil e a censura"; Abreu, "Circulação de livros entre Europa e América".

44 Hallewell, *O livro no Brasil*, 85–92.

45 According to the collection of the Count de la Vinaza, 30 works written in indigenous languages were printed in Mexico only between 1539 and 1560. Daher, "Os usos da língua tupi nos séculos XVI e XVII", 361–362.

46 Leite, *História da Companhia de Jesus no Brasil*, vol. 4, 269; Leite, *História da Companhia de Jesus no Brasil*, vol. 7, 209–210.

copies might have been destroyed during the expulsion of the Jesuits in 1759–1760. Among these manuscripts, there are some catechetical books, such as the *Confessionario pella lingoa geral para seconfessar por elle em cazo denesesidade urgente*, which we will examine later. This work, both written in the Tupi language and in Portuguese, circulated in the Jesuit missions of the captaincy of Pará in the middle of the 18th century; it was directly influenced by Alonso de la Peña Montegro's *Itinerario para párrocos de indios*.⁴⁷

Despite so many unfavourable elements, an interesting literature concerning the necessity of resolving conflicts in Portuguese America appeared, but not in the same way as the juridical literature produced in early modern Spanish America. If authors such as Juan de Matienzo, Juan de Solórzano Pereira, Feliciano de Vega y Padilla y Diego de Avendaño were recognised in Spanish America after the publication of their works, the most important juridical texts written in Brazil did not have the same impact. Simão Marques' *Brasília pontificia* (1749), probably the most complex juridical text written in colonial Brazil, was rarely mentioned in other books although it was published in Lisbon. The circulation of *Cultura e opulência do Brasil por suas Drogas e Minas* (*Culture and wealth of Brazil resulting from its medicinal drugs and mines*), published in 1711 and nowadays a significant source for Brazilian economic history of the late 17th century, was prohibited by the *Desembargo do Paço* just a few days after its publication; researchers did not even pay attention to its juridical relevance.⁴⁸

Some texts related to ecclesiastical normativity are particularly interesting for our purposes. Aiming to provide solutions for cases of conscience, this literature clearly proves the existence of a space where juridical and theological knowledge circulated. At the same time, these texts granted relevant information about the practice of cases of conscience in Portuguese America, offering details on the themes discussed and how they were decided. However, many manuscripts written from the 16th until the 18th centuries are now lost. Serafim Leite found references for the period about collections of cases compiled by the Jesuits Manuel da Fonseca, Manuel Xavier Ribeiro and Jerónimo Moniz, which seem to have disappeared.⁴⁹ On the other hand, many available sources can be considered pragmatic literature. Conversion, confession and good Christian manners, as well as the resolution of cases of conscience, clearly express the practical objective of the texts: the creation of an *orbe christiano* in the New World both by teaching Christian principles and by offering solutions for particular cases.

47 Barros and Fonseca, "Passagens do livro 'Itinerário para Párocos de Índios'".

48 On this aspect, see Cabral, "Antonil jurista?"

49 Leite, *História da Companhia de Jesus no Brasil*, vol. 7, 182.

Pastoral works (conversion dialogues, catechisms, sermons and grammar books) and cases of conscience will be examined in the following paragraphs, as well as a text whose purpose was not addressed to priests or to indigenous people, but to farmers and slave owners. Despite their juridical and theological relevance,⁵⁰ the constitutions of the Archbishopric of Bahia, produced by the Synod in Salvador da Bahia in 1707, are not dealt with in this article.⁵¹ The same applies to other important practical juridical works indirectly connected to Portuguese America, such as Antonio Vanguerve Cabral's *Practica judicial* (1730) and Manuel Álvares Pegas' *Allegação de direito por parte dos senhores condes do Vimiozo sobre a sucessão da capitania de Pernambuco* (1671). The author mentioned first was a former *ouvidor* in the Captaincy of Itamaracá and reported some cases decided by him. The second text was an *allegatio* written by the most famous Portuguese jurist of the 17th century, it dealt with a lawsuit between the heirs of the hereditary Captaincy of Pernambuco (which was the richer and economically most relevant area of Brazil in the previous century) and the Crown. Both of them were objects of specific papers.⁵²

5 Catechisms and Other Pastoral Works

This group of sources highlights the juridical relevance of catechetical books, grammar books of indigenous languages and sermons. The common purpose of all of these texts was primarily to promote the conversion of the “gentiles”, as pointed out before. However, some of them aimed at the promotion of Christian virtues (and consequently “educating” their congregation in the principles learned in their studies on moral theology).

That was the case of the sermons. Among them, those written by Father António Vieira (1608–1697) and published under the title of *Sermões*, are without a doubt the most remarkable and relevant – but his geniality seems to be singular in the colonial context. Since this chapter intends to comprehend the mainstream thinking, it would be better to examine the sermons produced by those fathers who preached in Brazilian churches and spread their words by printing or made them circulate in manuscripts. The case of Simão Marques

50 Marciano Vidal, among many others, considers the decrees of the councils and pastoral theology, which includes catechisms, confession manuals and sermons, as literary genres of moral theology. Vidal, *Historia de la Teología Moral*, vol. 4.2, 286.

51 About these Constitutions, see Feitler and Souza, *A Igreja no Brasil*; Cabral, “Ius commune in Portuguese America”.

52 Cabral, “Senhores e ouvidores de capitanias hereditárias”; Cabral, “Pegas e Pernambuco”.

is singular because he published five of his sermons, all of them in Portugal.⁵³ The other priests published less, like Lourenço Craveiro's sermon at the College of Bahia (16 February 1665),⁵⁴ or the sermons delivered by José de Andrada e Moraes⁵⁵ and Manuel Freire Batalha,⁵⁶ both in the village of Mariana in 1745, among many other cases.

On the other hand, catechetical works were a relevant genre produced in Portuguese America. The most important texts of this kind, according to the literature,⁵⁷ are *Doutrina Christam* (1592), by José de Anchieta, *Catecismo na Língua Brasileira* (1618), by Antonio de Araújo, and *Compendio da doutrina christam na lingua portuguesa & brasileira* (1687), by Johann Philip Bettendorf, to which I would add the *Catecismo da doutrina christãa na lingua Brasileira da Nação Kiriri* (1698), by Luigi Vincenzo Mamiani della Rovere. All of them, with the exception of the first one, were printed during the 17th century, and only Mamiani's work refers to other indigenous language besides the Tupi. Antonio de Araújo's text, the longest and best known,⁵⁸ was printed once more in 1686, in a modified version by Bartolomeu de Leão.⁵⁹ It was written almost entirely in Tupi, like the *Doutrina Christam*, whose first printed and fully translated version only appeared in 1992.⁶⁰ As I have mentioned before, Mamiani della Rovere's *Catecismo* was a bilingual text. Bettendorf, in turn, conceived his *Compendio* to be a short catechism.

Besides their intention of conversion, the other common element of these books was their content. They shared a common structure and dealt with certain topics: the confessionary, the dialogues of conversion, an introduction to the Christian faith (with an explanation about God, Jesus, Mary, the Holy Trinity, etc.), the Ten Commandments, the commandments of the Church, the seven capital sins, and so on. Clearly influenced by the scholastic method, they all used a structure based on questions and answers, trying to facilitate the work of the missionaries.

Antonio de Araújo's *Catecismo na Língua Brasileira* was the first printed catechism (1618) among those produced in Portuguese America. Araújo states in the prologue that he had used other catechisms as the base of his work to

53 Marques, *Sermão do patriarca S. Ignacio de Loyola*; Marques, *Sermam do grande apóstolo do Oriente S. Francisco Xavier*.

54 Craveiro, *Merenda eucarística e sermão*.

55 Moraes, *Sermão de aççam de graças*.

56 Batalha, *Sermoens, que no dia da apresentação de nossa senhora*.

57 Leite, *História da Companhia de Jesus no Brasil*, vol. 4, 312–314; Aymoré, *Die Jesuiten im kolonialen Brasilien*, 272.

58 Navarro, "Tradução do 'Catálogo de todos os dias santos de guarda e de jejum'".

59 Monserrat, Barros and Mota, "O índio "travesso" em um confissãoário jesuítico tupi de 1686".

60 Anchieta, *Doutrina Chistã*, vol. 1.

which he added other contents,⁶¹ which is evidence of the construction and circulation of knowledge concerning catechisms and those related matters. Strategies to achieve a better pronunciation in Tupi, at the beginning of the book, constitute one of the few parts written in Portuguese,⁶² while the following pages are all in the *lingua geral*. The contents of the book show his intention to offer a reduced but complete version of the foundations of the Christian doctrine in the standardised indigenous language, introducing those elements and explaining them. When Araújo treats the fasting or the Sunday as a holy day,⁶³ he offers a theoretical but simple explanation for that, in order to make easier the diffusion among indigenous people. Translated prayers and explanations of the bases of Christianity, such as the Lord's Prayer,⁶⁴ as well as the catechism itself, follow; the book opted for a structure in dialogues.

Avoiding complexity and reducing the theological knowledge were the guidelines followed by Araújo in his book. As he intended to make the indigenous people understand the Christian doctrine, nothing should be hard to comprehend or to explain. The rigid formula of a dialogue simplified by the missionary explaining the creation of the world, the passion of Jesus,⁶⁵ the Resurrection and even the role of the Catholic Church and of papal jurisdiction.⁶⁶ Dialogues were also useful in the catechism to introduce the neophytes into the Ten Commandments and the sacraments. In a recent work, Jaqueline Ferreira da Mota has translated some parts of the confessionary of the *Catecismo na Lingoa Brasilica*, which has not yet entirely been translated into Portuguese. In this Portuguese version, it is possible to understand how the missionaries explained that some practices of this ethnic group were not coherent with the Christian faith. The questions criticised indigenous religious practices in order to convince the audience that these were not correct.

Based on Mota's Portuguese translation of Araújo's confessionary (see table 5.1), I propose a comparative scheme dealing with the questions on the first commandment:

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- 61 "[...] que eu o minimo de seus filhos posesse em ordem, pera com a do nosso Reuedenrissimo Padre Geral, se imprimir o Catecismo, que nesta lingoa antigoamente composerao alguns Padres doctos, & bons lingoa, ao qual bem visto, & examinado acrescentei, nao so todas as exortações necessárias nos passos occurrentes, & hum copioso confessionário: mas tambem lhe ajuntei tudo o que pertence à ordem de Baptizar, casar, & ungir, & enterrar [...]". Araújo, *Catecismo na lingua brasilica*.
- 62 Araújo, *Catecismo na lingua brasilica*, fols. 1r–2v.
- 63 Araújo, *Catecismo na lingua brasilica*, fols. 3r–12v.
- 64 Araújo, *Catecismo na lingua brasilica*, fols. 24v–30r.
- 65 Araújo, *Catecismo na lingua brasilica*, fols. 51v–64v. Araújo made one dialogue for each station of the Cross.
- 66 Araújo, *Catecismo na lingua brasilica*, fols. 49r–51r.

TABLE 5.1 Questions on the first commandment in Araújo's confessionary (1618): comparison of the Tupi, Portuguese and English versions

Q.	Original in Tupi ^a	Portuguese version ^b	English version ^c
1	<i>Ereimoetepe Tupã opacatu ymoetê piraçocé?</i>	<i>Tu honras, tu estimas a Deus sobre todas coisas adoradas?</i>	Do you honour, do you appreciate God above all the adored things?
2	<i>Ereimong-etápe Payê marãtecorâmarece Tupã recó coti nheenga reitica? Mobipe?</i>	<i>Tu pediste ao pajé que fizesse um trabalho, ao mesmo tempo falando mal do mandamento de Deus?</i>	Did you ask the <i>pajé</i> ^d to do work for you while you denigrated God's commandment?
3	<i>Ererobiápe yetanongaüiba? Coipô Caraimonhangâ?</i>	<i>Tu acreditas na falsa oferta ao pajé ou na cerimônia da santidade?</i>	Do you believe in the false offering to the <i>pajé</i> or in the ceremony of the sanctity?
4	<i>Ererobiápe yagoâra, coi o guirã nheêga morâceya, coipo maraca poraceya? Coipo morãguiguana?</i>	<i>Tu acreditas na onça, na fala ou na dança do pássaro, ou na dança do chocalho ou no agouro?</i>	Do you believe in the jaguar, in the birds' talk or dance or in <i>chocalho</i> ^e or in the omen?
5	<i>Ererobiápe Paye aíba moçanguijaramo cecô?</i>	<i>Tu acreditas no pajé aliado a espírito malfazejo, ele estando na qualidade de feiticeiro?</i>	Do you believe in the <i>pajé</i> allied with bad spirits as a wizard?
6	<i>Çupixuár ipo Paye âgaiba erêpe cerobiâ?</i>	<i>“Com razão, acredito naquele que costuma ser o pajé mau”, disseste?</i>	Did you say: “Indeed, I believe in the one who usually id the bad <i>pajé</i> ”?

TABLE 5.1 Questions on the first commandment in Araújo's confessional (1618): comparison of the Tupi, Portuguese and English versions (*cont.*)

Q.	Original in Tupi ^a	Portuguese version ^b	English version ^c
7	<i>Erenhemopayêpe enhemoetêbo, epoçubana?</i>	<i>Tu te fizeste pajé, tu te honrando, te engrandecendo, tu chupando para curar?</i>	Did you make yourself <i>pajé</i> , honoring yourself, sucking/drinking, in order to cure somebody?
8	<i>Ereimoripe aba Payê rerobiaragoâma rece?</i>	<i>Tu consentiste que alguém?</i>	Did you agree that anyone did so?
9	<i>Ereyçubanúçape Payê aiba çûpê?</i>	<i>Tu te deixaste chupar pelo pajé mau?</i>	Did you let the bad <i>pajé</i> suck you?
10	<i>Erexubanucarpe nde raira, coipó nde remirecô, coipô amô abâ?</i>	<i>Tu deixaste que chupassem teu filho, ou tua mulher ou algum índio?</i>	Did you let anyone suck your son or your wife or any indio?
11	<i>Ereçairpe nderaîra Iacî cemîpîreme?</i>	<i>Tu fizeste incisão no teu filho quando começou a sair a lua?</i>	Did you make an incision in your son when the moon appeared?
12	<i>Ereyecuacúpe nde remirecô membîra recê, nde raîra maraârarecê, nderaîjra nhemondîara recê?</i>	<i>Praticaste o jejum devido a tua esposa ter dado à luz, por estar filho gravemente doente, ou por causa da primeira menstruação de tua filha?</i>	Did you fast when your wife gave birth, when your son was seriously ill or because of the first menstruation of your daughter?

^a Araújo, *Catecismo na lingua brasílica*, fols. 98v–99r.

^b Mota, *A confissão tupi*, 237–242.

^c Translation is mine, based on the mentioned Portuguese translation.

^d *Pajé* is the spiritual leader of the Tupi people.

^e *Chocalho* is a musical instrument often used in the religious ceremonies of the Tupi.

A look at questions four and twelve shows that the author of the confessionary was familiar with the indigenous customs and probably knew some of the most frequent practices of the *pajés*, and such a specific knowledge was necessary to establish a successful dialogue. Asking the confessing person about their practices was a form of explaining to them that the *dance of the birds* was a pagan belief that might be avoided, because it violated the Christian faith.

At the end of the 17th century, some years after the publication of a new edition with a linguistic update of Araújo's *Catecismo* by Bartolomeu de Leão, the Jesuit Luigi Vincenzo Mamiani della Rovere published his *Catecismo da doutrina christaa na lingua brasilica da Nação Kiriri*, probably the only printed catechism not in Tupi in Portuguese America. Kariri was a language used in North-eastern Brazil, particularly in the *sertões*. In the prologue, Mamiani explains the reasons why the book has a bilingual structure, with the contents both in Portuguese and in the Kariri language. Those who had the book in their hands could learn the Kariri language, but it was also possible that, if one was not interested in learning the language, one could learn its religious content and use it as an instrument for the conversion and catechesis of people under their responsibility, such as their sons and slaves.⁶⁷ This passage clearly demonstrates the author's pragmatic intention in writing a catechism.

As other catechisms, Mamiani's work handles the foundations of the Christian faith in prayers (sign of the Cross, Our Father, Ave Maria, Salve Regina, Credo), the Ten Commandments, the Commandments of the Church, sacraments, capital sins, cardinal and theological virtues and, among some other themes, a general confession. A simple structure in two columns, with the Portuguese text on the right and the Kariri on the left, looks like a glossary or a dictionary, different from the more complex catechism of Araújo. In the second part, the catechism itself, Mamiani applies the scholastic structure of the dialogue between master and disciple to introduce the neophyte in Christian matters, and here, again, he uses texts both in Kariri and in Portuguese. The master (M.) explains some Christian acts, like the sign of the Cross, to the disciple (D.): "M. – Why we do the sign of the Cross? D. – To confess to the Holy Trinity,

67 "Ajuntei neste Catecismo a significação Portugueza correspondente á frase da língua Kiriri por duas causas. A primeira, para que os novos Missionarios por essa via vendo os exemplos na língua, & a significação no vulgar idioma, possaõ mais facilmente alcançar as frases, & o modo de falar, & assim aprender mais depressa a língua. A segunda causa he, porque se acaso este livrinho vier ás mãos de quem não sabe a lingua Kiriri, se aproveite também delle, ou para aprender is mysterios, & declaração deles para si; ou para os ensinar com esse metdo aos filhos, escravos, & outros de sua obrigação". Mamiani della Rovere, *Catecismo da doutrina christã*, fol. 7.

Father, Son, & Holy Spirit, three persons, & only one true God. M. – And what more? D. – To remember the Holy Cross, which redeemed us”.⁶⁸ Dialogues also served to illustrate themes like the Ten Commandments and the sacraments.⁶⁹

Probably the most interesting part of the text is the fifth chapter entitled “Way to administer the sacrament of marriage” (*Modo para administrar o sacramento do matrimonio*). There, Mamiani’s bilingual explanation refers to the most relevant themes on marriage, like the impediments, a glossary on family relationships in the Kariri language⁷⁰ and the ceremonial rituals, such as the questions of the father and the answers which bride and bridegroom should repeat during the ceremony.⁷¹

In the beginning of the fifth chapter (see table 5.2), Mamiani describes the *pregão*, i.e., the public announcement of an upcoming marriage, in order to remind anyone who is aware of impediments to inform the Priest. The author offers a very important document on colonial life, both in Portuguese and in Kariri.⁷²

Under the influence of the Constitutions of the Archbishopric of Lisbon, Mamiani informs about a custom in Brazilian dioceses of attributing the penalty of excommunication in the *pregão* for those who did not inform about the impediments or for those who maliciously reported a false one. Nevertheless, the indigenous people did not understand well the nature and the consequences of this excommunication; therefore, the warning against the nature of these acts, which used to happen among those people, was sufficient for Mamiani. The final part of the *pregão*, by its turn, is a clear demonstration of the influence of local customs in the making of institutions: this statement resulted from the usual cohabitation among the indigenous even if they did not get married.⁷³

The texts about the impediments follow a particular structure, because they constitute a simplification of the respective canonical dispositions on the theme. At first, Mamiani explains what a “diriment impediment” was,⁷⁴ and then in which cases it occurs, always in Portuguese and in Kariri. After analysing the *cognatio* and its cases, he writes a paragraph – only in Portuguese,

68 Mamiani della Rovere, *Catecismo da doutrina cristã*, 28–29. In this excerpt, Mamiani used the Portuguese words *Santíssima Trindade* and *Espírito Santo* in the Kariri version of the dialogue; however, when talking about God, he referred to *Tupã*.

69 Mamiani della Rovere, *Catecismo da doutrina cristã*, 110–138.

70 Mamiani della Rovere, *Catecismo da doutrina cristã*, 209–213.

71 Mamiani della Rovere, *Catecismo da doutrina cristã*, 207–208.

72 Mamiani della Rovere, *Catecismo da doutrina cristã*, 193–194.

73 Mamiani della Rovere, *Catecismo da doutrina cristã*, 194.

74 “As pessoas seguintes tem impedimento dirimente para casarem entre si, & se casarem, nao ficao bem casados, & hao-se de apartar”. Mamiani della Rovere, *Catecismo da doutrina cristã*, 195.

TABLE 5.2 Questions on the first commandment in Mamiani's Catechism (1698): comparison of the Kariri, Portuguese and English versions

Original in Kariri	Original in Portuguese	English version ^a
<i>Do ighỹde sipiwonhé N.N. inhuráe N.N. idehó N.N. inhutidzí N.N. Dunet çorí tokié sii wonhéá didehoá, kendébae do Warédi, idzené ibuânghé so Tupã, no imorókié inhádi. No iwakié ibureté idiomon, norítocriné siiwonhéá inaádi idzené ebuângheá so Tupã nodehé. Pihohóde dipiwohnerí diboá codoró siiwhoné kiedeádi bo ibuângheteá</i>	<i>Quer casar N.N. filho de N.N. com N.N. filha de N.N. quem souber de algum impedimento o descubra ao Padre sobpena de pecado mortal, se o não descobrir. E não havendo algum, ninguém ponha impedimento maliciosamente á execução deste matrimonio debaixo da mesma pena. Os que hao de casar vivirao apartados em quanto não casao, para fugir da ocasião do peccado.</i>	N.N., son of N.N., wants to marry N.N., daughter of N.N. Anyone who knows of an impediment must inform the Priest about it; on the contrary, he will commit a mortal sin. If there is no impediment, nobody shall maliciously put forward an impediment to the execution of this marriage under the menace of the same penalty. Those who will marry must live apart from each other as long as they are not married yet, in order escape from the situation of sin.

^a Translation is mine, based on the mentioned Portuguese translation.

probably because it was addressed to the missionaries – to warn that consanguinity is only forbidden in the second grade. To justify it, the author refers to a Papal Bull of Paul III, who decided that impediments of third and fourth grade of consanguinity did not apply for indigenous people. Consequently, dispensations are unnecessary, in those cases: and then he literally quotes Alonso de la Peña Montenegro's *Itinerario para párrocos de indios*.⁷⁵ To the other impediments he refers only as those “that only prevent the marriage” (*impedimentos*,

75 “Advirto que aqui não se declara o impedimento de consanguinidade, senão, até o segundo grão inclusive; porque Paulo III por hua Bulla tira aos Indios os impedimentos do terceiro, & quarto grão afim de consanguinidade, como de afinidade; nem há mister dispensação para eles nesses dous grãos, porque como diz o Bispo Montenegro no seu

que sómente impedem o matrimonio), with no definition, but evidently following Thomas Aquinas' view on that matter.⁷⁶ After explaining four impediments (*Ecclesiae vetitum, Feriae, Sponsaliae* and *Votum, impediunt fieri, permittunt facta teneri*) in both languages, Mamiani states that the two other impediments of this kind "told by the doctors", the catechism and the crime, were not valid here, because, according to the "common opinion of the authors", the contrary use can abrogate impediments that prevent marriage.⁷⁷

The last text is the anonymous manuscript *Grãmatica da Lingua geral do Brazil, com hum Diccionario dos vocabulos mais uzuaes para a intelligencia da dita Lingua* (1751), which also includes a "doctrine" and a confessionary. In the doctrine, we find Tupi versions of the signal of the cross, Our Father, Hail Mary, Credo, Ten Commandments, commandments of the Church, sacraments and seven capital sins.⁷⁸ Just like in other catechisms, some Christian expressions have no translation into Tupi, such as "Sancta Cruz" and "Amen". Jesus and Maria have no correspondence in Tupi; the same happens with the word "peccado" (sin), which appears in the warning before the confession in the *Catecismo na Lingoa Brasilica*⁷⁹ probably because the indigenous people did not have any correspondent structure in their culture. On the other hand, the references to "God" have always appeared in the Tupi language with the use of the word "Tupã". As the Jesuits considered Tupã to be the most powerful god according to this tradition,⁸⁰ they translated it as "the only god" – a cultural translation of the monotheistic structure to a culture based on polytheism. Since the 16th century catechism written by José de Anchieta, this statement is explicit: when the confessionary treats the first commandment, both the Tupi version (Eimoeté

Itinerario de Parocos de Indios, esta concessão não he meramente privilegio, senão ley municipal Ecclesiastica". Mamiani della Rovere, *Catecismo da doutrina christã*, 198–199.

76 While the diriment impediments absolutely invalidated the marriage, the impediments that only prevented marriages turned them illicit but valid. Aquinas, *Opera Omnia*, 96–97, Supplementum tertiae partis, q. 50. A similar definition is offered by Pedro Murillo Velarde, probably the most systematic canonist of colonial Spanish America: "Sicut in aliis contractibus, sic etiam in matrimonio, aliqua inveniuntur impedimenta inhabilitantia absolute ad matrimonium contrahendum, & dicuntur dirimentia, quia ejus valorem dirimunt. Alia dicuntur impediencia tantum, quia illis stantibus matrimonium validem, tamen illicite contrahitur". Murillo Velarde, *Cursus juris canonici*, vol. 2, 17–18 (lib. 4, tit. 1, n. 27).

77 Mamiani della Rovere, *Catecismo da doutrina christã*, 206.

78 BUC, *Gramatica da Lingoa Geral do Brazil*, fols. 370–379.

79 "Memê tipo nhemogaraibi pira tecô catû abíára peccado Tupã nheengaabi tegoáma yába pupe oanga jucá [...]". Araújo, *Catecismo na lingoa brasílica*, fol. 96v.

80 According to Graciela Chamorro, Tupã was actually a minor god despite its relevance in indigenous thought. Chamorro, "La traducción del lenguaje cristiano al guaraní jesuítico", 254.

ojepe Tupã) and the first question of the confessor to a confident (Ererobiárpe Tupã ojeé, jandé moñangára?) refer to Tupã as “the only God”.

In contrast to other catechisms produced in Portuguese America, the confessional of this manuscript does not have a dialogical structure: written in Tupi, it only contains the questions the confessor might ask the penitent. Some questions are dedicated to each one of the commandments, but, with regard to the fifth and the sixth commandments, the confessional offers special inquiries about women. Maria Cândida Barros, Ruth Monserrat and Jaqueline Mota, in a paper about the sixth commandment in this confessional manuscript, propose a translation into Portuguese of all of the pertinent questions (see table 5.3). The specific content of the questions regarding women demonstrates the attention to some particular sexual practices among the native communities. Comparing the questions addressed to men and to women, the authors show that in a few cases the missionaries presuppose a continuity in the actions of the women. However, when they ask similar things to men, the verbal structure denotes an interest only in past actions and not in the continuity of the sin. In other cases, referring to sexual attraction, the questions addressed to women explain many male categories (boy, adult, white man and priest), while the same questions addressed to men only refer to a “more beautiful woman”.⁸¹ Some examples of these differences are the following:

TABLE 5.3 Questions on the sixth commandment in the manuscript confessional (1750): comparison of the Tupi, Portuguese and English versions

Women – Portuguese translation	Women – English version	Men – Portuguese translation	Men – English version
32 – Quando você olhou um rapazinho ou um homem ou um branco ou um Padre você falou para si mesmo tomara que eu copule com ele?	When you look at a young boy or a man or a white man or a priest, did you say to yourself “I hope to copulate with him”?	32 – Ao olhar uma mulher mais bonita você falou para si mesmo tomara que eu a copulasse?	When you look at a more beautiful woman, did you say to yourself: “I hope to copulate with her”?

81 BUC, *Gramatica da Lingoa Geral do Brazil*, fols. 172–176.

Another remarkable aspect of this confessionary is the reference to the devil in the questions on the first commandment (see table 5.4).⁸² Jaqueline Mota notices a change in the way the missionaries handle the issue of indigenous diabolic beliefs in this confessionary.⁸³ In the question *Erarubiâr juruparî recê?* (Do you believe in the devil?), they presupposed that the indigenous were able to believe, which was an important assumption in a context when the missionaries were also concerned about fighting the devil. The intention of the anonymous author of the confessionary was to introduce the existence of the devil in order to fight it, and further to connect this abstract character to concrete situations the missionaries believed to be the materialisation of evil, such as the *pajés* and the witches,⁸⁴ but using one word (*juruparî*)⁸⁵ in the Tupi language. In many questions of this confessionary, this connection becomes evident:

6 Cases of Conscience

Creating a society based on Christian values in the New World, with few European individuals and a more numerous native population, proved very difficult for the first generation of Jesuits. They knew that the situation of Portuguese America in the middle of the 16th century demanded special treatment due to its particularities, but this did not mean abandoning the European traditions. Every difference might not only be thought from but also be compatible with the tradition in which the Jesuits were inserted.

The cases of conscience were precisely those moments when Jesuits reflected about the singularities of the American circumstances. Albert R. Jonsen and Stephen Toulmin, dealing with the medieval origins of the *casus conscientiae* and relating them to the notion of prudence (*prudentia*) especially developed by Thomas Aquinas, drew attention to the possibility of the conscience to be mistaken. If an error arose from ignoring a circumstance which did not result from negligence, the erroneous conscience was excused from sin.⁸⁶ This issue is related to the important notion of probabilism, a remarkable issue of moral

82 About the difficulties in achieving a cultural translation of the notion of devil, see Chamorro, "La traducción del lenguaje cristiano al guaraní jesuítico", 256–258.

83 Mota, *A confissão tupi*, 69–73.

84 Mota, *A confissão tupi*, 74–102.

85 In the manuscript of the dictionary found with the same copy of the confessionary, *juruparî* was the Tupi word that corresponded to the Portuguese *diabo* (devil). BUC, *Gramatica da Lingoa Geral do Brazil*, fol. 287r.

86 Jonsen and Toulmin, *The abuse of casuistry*, 129.

TABLE 5.4 Questions on the first commandment in the manuscript confessionalary (1750): comparison of the Tupi, Portuguese and English versions

Q.	Original in Tupi ^a	Portuguese version ^b	English version ^c
1	<i>Ereçauçũb Tupãna nde pỹa çuĩ catũ?</i>	<i>Amas mesmo a Deus, no teu coração?</i>	Dou you really love God in your heart?
2	<i>Erarubiâr juruparĩ recẽ?</i>	<i>Crês no diabo?</i>	Do you believe in the devil?
4	<i>Erecenõi pecô juruarĩ, ndepỹa ýba ramẽ ajubetẽ teẽm nhõte?</i>	<i>Invocaste, porventura, o demônio, quando estavas com o coração debilitado, angustiado, ainda que tenha sido apenas à toa, em vão, sem resultados, inutilmente?</i>	Did you, perhaps, invoke the devil, when your heart was weak, distressed, even if it was only in vain, without results, or, uselessly?
5	<i>Eremonguetã pajẽ amo osecár oaráma, mã nongára aỹba indẽbo?</i>	<i>Negociaste com algum pajẽ para que oxalá ele buscasse mal igual para ele?</i>	Did you negotiate with any <i>pajẽ</i> in order to make him look for the same evil for him?
7	<i>Nde eropoçanõng ucã, pajẽ amõ çupẽ?</i>	<i>Mandaste algum pajẽ curar?</i>	Did you ask any <i>pajẽ</i> for a cure?
8	<i>Erarobiâr, Pajẽ oericõ tecõ juruparĩ çuĩ, opaçanõng arãma abã?</i>	<i>Acreditas que o pajẽ tenha hábito com o diabo para curar alguém?</i>	Do you believe that the <i>pajẽ</i> has a pact with the devil to cure anyone?
9	<i>Pajẽ pecõ indẽ? = Se for femea = Maracaymbãra?</i>	<i>Porventura [és] pajẽ / Se for fêmea / Porventura [és] feiticeira?</i>	Are you <i>pajẽ</i> , by chance? [if the confessing person is male] Are you witch? [if the confessing person is female]

^a BUC, *Gramatica da Língua Geral do Brazil*, fols. 384–385.^b Mota, *A confissão tupi*, 242–244.^c Translation is mine, based on the mentioned Portuguese translation.

theology in the 16th and 17th centuries, present in America⁸⁷ as well. With a large scope of action if one analyses the circumstances and follows one's conscience, the prudence and the natural law, the casuistry cannot be separated from the capacity of some people to judge the acts of others, in order to recommend (or not) their actions.⁸⁸ As Jonsen and Toulmin resumed, the casuists were offering descriptions of moral behaviour in which the moral precepts and the details of actions were looked at together, prescribing the right act and judging specific situations with their conscience.⁸⁹

In early colonial Brazil, the Jesuits intended to guide morally the population, which included deciding on concrete situations unknown in their particularities to the European tradition. It was not important if they had not yet faced a similar case, because the moral principles and prudence of a Jesuit missionary were considered sufficient to provide an answer for any case of conscience that would appear. From their arrival in the middle of the 16th century until their expulsion, more than two centuries later, the Jesuits were the most relevant casuists in Portuguese America. As already pointed out, the studies of moral theology in the Jesuit colleges were concerned with teaching how to deal with cases of conscience. However, in the first decades of the missions, the necessity of solving these cases was intense and directly proportional to a sentiment of not feeling capable to judge. This is the reason why many priests asked those authorities for the help in whom they trusted, and some of the written answers have survived.

An intriguing source in this respect is the manuscript *Sententiae circa resolutionem aliquorum casum, qui in Brasilia frequenter accurunt*, dated from the 1580s and not yet integrally published.⁹⁰ Five years after their arrival in Brazil, some Jesuits asked for the help of their former professors in Coimbra due to the difficulties they were facing with some situations. In this document, the priests Fernão Perez and Gaspar Gil and two of the most relevant theologians of the 16th century, Martín de Azpilcueta and Luis de Molina, answered the consultations in Latin, with the exception of one text written in Spanish by Molina. Five questions are treated in the manuscript: (1) charging more in credit sales than in cash, (2) confession of slaves about their incapacity to speak Portuguese, (3) a general absolution in cases of shipwreck, (4) Portuguese people with "just" titles selling slaves, and (5) priests omitting the bans of marriages. This document illustrates that and how European juridical and theological

87 Ruiz, "Probabilismo e Teologia moral".

88 Jonsen and Toulmin, *The abuse of casuistry*, 135.

89 Jonsen and Toulmin, *The abuse of casuistry*, 136.

90 An excerpt of the text was published by Zeron, *Linha de fé*, 499–505.

traditions directly influenced the formation of a particular juridical space in Brazil; citing an answer given by famous theologians like Azpilcueta and Molina assured a high authority to the solution of the case.

The first question of the *Sententiae* treats usury, a theme in which Luis Molina was a renowned specialist. His response for the consultation offers impressive information about the economic dynamics of the Brazilian sugar production circle in the middle of the 16th century. Molina describes long-term indebtedness to establish *engenhos*, payment not in money but *in natura* (with sugar), the circulation of letters of credit and interest charged by creditors in Portugal; he answers, after an analysis of the contracts, that the system is valid.⁹¹ Azpilcueta answers in the same direction in a likewise complex text with many theoretical aspects about usury and income in mortgage contracts. He does not mention any particularity of Portuguese America, but his opinion refers four times to his *Manual de Confesores* and once to Thomas Aquinas.⁹² With regard to the second question, Azpilcueta supports the confession of black slaves made through an interpreter in cases that they do not know the language of the confession⁹³ – an answer that is perfectly compatible with a quoted opinion he manifested in the *Manual de Confesores*.⁹⁴ Here the linguistic problem, a central issue during the first decades of the Portuguese presence in America, appears once more, but the author does not say a word about adopting the strategy of learning the languages of the slaves. Slavery and the issue of the legitimacy of the property title appears in another question; and both Azpilcueta⁹⁵ and Molina⁹⁶ base their answers on the origins of enslavement, in this case a just war. This argument is compatible with Molina's theory of legitimate slavery, which might result from a just war, a commutation of a death penalty, self-alienation in extreme necessity or birth.⁹⁷

Another example of a written case of conscience deals with the question: “Se um pai pode vender o seu filho ou se alguém pode vender a si mesmo” (If the father could sell his son and if someone could sell himself). It has the structure of a classical *responsa*, a usual genre of juridical literature in the late Middle Ages in which a specialist answered a specific question.⁹⁸ In this case,

91 BPE, *Sententiae circa resolutionem*, fols. 120v–123v.

92 BPE, *Sententiae circa resolutionem*, fols. 127r–128v.

93 BPE, *Sententiae circa resolutionem*, fol. 128v.

94 Azpilcueta, *Manual de confesores y penitentes*, 373.

95 BPE, *Sententiae circa resolutionem*, fols. 129r–129v.

96 BPE, *Sententiae circa resolutionem*, fols. 124v–125r.

97 Molina, *De justitia et jure opera omnia*, 87–91 (tit 1, disp. XXXIII).

98 About the genres of European legal literature, see, among other texts, Cabral, *Literatura jurídica na Idade Moderna*, 24–32.

the Jesuit priest Quirício Caxa asks the Provincial priest Manuel da Nóbrega (1517–1570) about the two situations mentioned in the title, which were very common among the natives of Brazil. Nóbrega argues that both are possible and not against natural law, stating that “one can sell himself because everyone is the lord of his own liberty, which can be estimated and, as it is not forbidden by any right, can also be alienated and sold”.⁹⁹ About the second situation, Nóbrega recognises that there were two conflicting natural laws, and the strongest should prevail: “then, the natural law that orders the conservation of life prevails over the other natural law of conserving the liberty”.¹⁰⁰ Only in cases of extreme necessity does natural law allow a father to sell his son.¹⁰¹ Nóbrega’s opinion on indigenous slavery was at the same time critical and somehow tolerant, following the opinions of the theologians, especially Azpilcueta, Soto and the above-mentioned Molina in admitting slavery in exceptional situations.

This text is highly representative of the adoption of a formal structure to provide a solution for a conflict in Portuguese America. Unlike the authors of the *Sententiae circa resolutionem aliquorum casum, qui in Brasilia frequenter accurrunt*, Nobrega wrote his *responso* when he was in Brazil, and that fact is remarkable because of the material content of the answer, which he built by using European legal and moral literature. Nóbrega dealt with particular problems that happened in America but he grounded his opinion on arguments of *ius commune* and theology.

This list of authors used by Nóbrega¹⁰² is quite limited in comparison with other texts produced in Portuguese America,¹⁰³ but one point should be stressed. The author of this *responso* of 1567 was Manuel da Nóbrega, who produced this text less than twenty years after the settlement of the Jesuit Province of Brazil and in a moment when the general conditions of the missions were particularly difficult. Considering that he prepared the text in Brazil – which

99 Nóbrega, *Cartas do Brasil e mais escritos*, 402–403.

100 Nóbrega, *Cartas do Brasil e mais escritos*, 419.

101 Nóbrega, *Cartas do Brasil e mais escritos*, 411–412.

102 The complete list of authors quoted by Manuel da Nóbrega in his text “If the father could sell his son and if someone could sell himself”: Abbas Panormitanus, Accursius, Andrea Alciato, Aristotle, Bartolomeo Saliceto, Diego Covarrubias y Leyva, Dino Mugellano, Domingo de Soto, Duns Scotus, Martín de Azpilcueta, Nicholas de Lyra, Richard Middleton, Sylvester Mazzolini, Thomas Aquinas and Tommaso de Vio (Cardinal Cajetan).

103 Despite its limited bibliography, Antonil used many other authors in the more juridical chapter of his *Cultura e opulência no Brasil por suas drogas e minas*, notwithstanding that it was published one-and-a-half centuries later than Nóbrega’s text. A table with a complete list of authors quoted by him can be found in Cabral, “Antonil jurista?”.

makes it the most ancient Brazilian moral-juridical document, according to Serafim Leite¹⁰⁴ –, it is possible to conclude that Manuel da Nóbrega consulted the quoted books in America, probably in the college library. So these books were available and read in Brazil in the middle of the 16th century, even if this access was limited to the Jesuit colleges. In any case, the example of this *responso* is sufficient proof that the European juridical and moral literature influenced the way the cases of conscience were decided in early colonial of Brazil.

Cases of conscience had an undoubtedly pragmatic character because they provided a solution for a concrete juridical problem. Despite the inexistence of evidence about the circulation of the answers for these cases of conscience, the hypothesis seems plausible that the content of these proposals, or, more explicitly, the knowledge expressed through these cases of conscience, circulated. Solutions provided for a case could later be adopted in other similar situations, and that would make the Jesuits more confident when facing a case that required moral reflection. So these texts probably contributed to the construction of a legal culture situated between the learned tradition, under the influence of European authors, using the written form and the model of *responso*, on the one hand, and the oral tradition, applying the solutions to particular cases and transmitting the content of these answers, on the other hand.

7 Advising Masters of Slaves and Promoting Christian Virtues

Jorge Benci, an Italian-born Jesuit, lived in North-eastern Brazil during the last decades of the 17th and the first years of the 18th century. He held many relevant offices in the Jesuit Province of Brazil, and published his book *Economia christã dos senhores no governo dos escravos* ("Christian economy for the masters in the government of the slaves") in Rome, in 1705. The purpose of the book appears clearly in the preface, in which the author states his intention of imparting the obligations a lord has towards his slaves. That is the reason why he does not use any complex structure or a highly educated tone in his writings, but a simple and clear style, because, as he says, he speaks as a foreign missionary.¹⁰⁵ In other words, his goal was only to make himself understood, facilitating the readers of the book to follow his instructions.

104 Leite, *História da Companhia de Jesus no Brasil*, vol. 7, 184.

105 "Bem creyo que te nao pareceã o estylo tam culto, como quizeras; mas desculpa-me; porque fallo como Missionario, e como Missionario estrangeiro". Benci, *Economia christã*.

Rafael Marquese rightly observes that only Jesuits, and never a lord of an *engenho*, actually published texts on slavery during the colonial age. As possible reasons for this phenomenon, he mentions the difficulties of printing, the exiguous number of readers and the feeling that the government of slaves was something related to the personal beliefs of every lord.¹⁰⁶ Texts justifying slavery and prescribing good behaviour,¹⁰⁷ of which *Economia christã* is an example, only appeared at the turn of the 17th century. Social tensions between masters and slaves such as the eruptions of resistance acts like the *quilombo* of Palmares, in the Captaincy of Pernambuco,¹⁰⁸ can explain that scenario, and this is the reason why Jesuits like Benci were so concerned about providing guidelines to the masters of slaves.

After an introduction focusing on the origins of slavery,¹⁰⁹ Benci explains what he considers the correct behaviour a master of slaves should exhibit. A part of the book corresponds to each of the four obligations towards slaves, but three of them (to sustain with food, clothes and health, to punish their faults and to give them work) are not relevant for our chapter, unlike the obligation of introducing them (or providing their introduction) to the Christian faith. As rational creatures, slaves deserved special care for their bodies and souls, so the lords had to sustain both elements.¹¹⁰ According to the Council of Trent, the spiritual sustainment materialised in accessing the Christian Doctrine, the use of the sacraments and the good example of life, all of them obligations of a lord because the Tridentine decrees, which were primarily addressed to the priests, also reached the lords who somehow were considered *curas* of their servants' souls.¹¹¹

Introducing the Christian doctrine means teaching both the Christian faith in which the servants should believe, and the laws of God, which they should respect. Benci emphasises the master's role as responsible for providing access to Christianity drawing on the opinions of Martín de Azpilcueta, Estevão Fagundes and Saint Augustine.¹¹² There was no necessity of acting directly and by themselves in this task, because a lord could allow their slaves to attend the Jesuit colleges, where missionaries would teach them in their own language.¹¹³

106 Marquese, *Feitores do corpo, missionários da mente*, 48–49.

107 Vainfas, *Ideologia e escravidão*.

108 Marquese, *Feitores do corpo, missionários da mente*, 49–50.

109 The author's argument to explain slavery was the original sin. Benci, *Economia christã*, 1–9.

110 Benci, *Economia christã*, 55.

111 Benci, *Economia christã*, 56.

112 Benci, *Economia christã*, 57–62.

113 Benci, *Economia christã*, 65–66.

In a chapter especially dedicated to the priests, Benci calls on them to participate in the efforts of teaching the slaves the most relevant topics of Christian doctrine, but in a way the slaves could understand, that is to say, with “accommodated words due to their rudeness and their low capacity”.¹¹⁴ In other words, Benci asks the priests to simplify their messages and make their discourse understandable for a particular audience the clergymen were not used to.

Among the objectives of the book, we do not find an explanation about the content and the relevance of the sacraments – these were the matter of catechisms, as previously described. The author justifies the necessity of slaves receiving sacraments, in a first moment baptism, anointment of the sick and confession, finally marriage. Quoting Tomás Sánchez, the author mentions what he calls the revocation of Roman law by canon law in order to admit the possibility of marriage among the slaves, which would be more appropriate to divine and natural law;¹¹⁵ restrictions of marriages among slaves by their lords meant violating the laws of God. The presence of Sánchez on the topic about marriage is significant: he was the most relevant author on this issue, his book was consulted and used as an authority, and his ideas appeared in the text in a simplified version. Consequently, we can affirm that Sánchez is an example of a theologian whose works circulated and influenced the comprehension of a juridical institution (in this case marriage) in Portuguese America.

Benci also stressed the responsibility of lords to provide good examples and virtues, following the idea that good actions are better than words, and the slaves would imitate their master’s actions.¹¹⁶ In this case, unlike the situations relating to free people, following their master’s example was not an incentive but rather an obligation for the slaves.¹¹⁷ The best way of giving good examples, and consequently helping the slaves to save their souls, was avoiding to sin and not creating situations that might promote sins; hence Benci exemplifies many situations in which lords sin and make their slaves incur in sins, such as the concubinage between a lord and a female slave.¹¹⁸

Notwithstanding its character of a simplified text dedicated to an audience of alphabetised people not necessarily familiar with moral discussions, the

114 “Que importa que o Paroco ensine aos escravos as orações, os mysterios da Fé, e os preceitos da Ley de Deos, se os não propõem com palavras accommodadas á rudeza, e pouca capacidade de Negros boçais? Senao uza de semelhanças, e exemplos palpáveis?” Benci, *Economia christã*, 74.

115 Benci, *Economia christã*, 86.

116 Benci, *Economia christã*, 91–94.

117 Benci, *Economia christã*, 95–96.

118 Benci, *Economia christã*, 102–121.

book contains some references to important classical authors, theologians and jurists (see table 5.5).¹¹⁹ Their appearance illustrates the argumentative use of the rhetoric authority of these names, all of them relevant at the end of the 17th century. Besides three mentions of the Council of Trent and a high number of references to the Bible, all the authors quoted in this book are included in the following list.

The strong presence of theologians does not come as a surprise. Nevertheless, next to scholastic theologians and authors associated with the Society of Jesus, there are many references to the Church Fathers, in a clear allusion to early Christianity. It does not seem to be by chance: in the conclusion of the book, Benci recalls that the first Christians freed their slaves as soon as those were baptised. He definitely has no intention to recommend the same action, but he wants to convince the lords to improve the miserable situation of their slaves.¹²⁰

This source clearly shows the author's purpose to instruct the lords about their rights and obligations concerning slavery in colonial Brazil. Lords were also a relevant instrument in the establishment of Christianity in the New World, but they should both expose their slaves to Christian virtues and act according to these values. *Economia christã* was a book particularly concerned with the practical diffusion of certain matters, all of them discussed with a moral theological background that reflects the mainstream thinking and the predominant interests of the Society of Jesus in Portuguese America.

8 Concluding Remarks

In conclusion, I would like to underscore the relevance of pragmatic literature in the specific period analysed in this chapter. In spaces where the royal power was not always present, the role of ecclesiastical authorities for the regulation of social life was strong. Conflicts always required resolutions, and pragmatic literature was a remarkable instrument for that purpose. Those written sources are important for understanding how Christian mentality developed in Portuguese America, whether by teaching Christian morals or by providing solutions for cases of conscience. The particularities of Portuguese America demanded answers for its specific problems, but the proposed solutions were elaborated in the light of the European legal and theological traditions.

119 In this respect, there are many similarities among the authors quoted by Benci and by other missionaries in Spain. See Palomo, "Misioneros".

120 Benci, *Economia christã*, 281–282.

TABLE 5.5 Authors cited in Jorge Benci's text *Economia christãa dos senhores no governo dos escravos*, Roma 1705

Author	No. of mentions
John Chrysostom	9
Aristotle	7
Nicholas de Lyra	6
Augustine	6
Thomas Aquinas	5
Cornelius a Lapide	5
Cicero	4
Hugo Etherianis	3
Tomás Sánchez	3
Seneca	3
Ambrose	2
Cyril of Alexandria	2
Bernard of Clairvaux	2
Plutarch	2
Saint Jerome	2
Clement of Alexandria	1
Rabanus Maurus	1
Basil of Seleucia	1
Peter Chrysologus	1
Cyprian	1
Estevão Fagundez	1
Martín de Azpilcueta	1
Fernando de Salazar Chirinos	1
Gratian	1
Domingo de Soto	1
Hugh of Saint-Cher	1
Gaspar Sanchez	1
Luís de Granada	1
Silvestre Mauro	1
Francisco Suárez	1
Tommaso de Vio (Cardinal Cajetan)	1
Philo of Alexandria	1

On the other hand, these texts are also a valuable evidence that learned knowledge circulated in colonial Brazil: both as prints and manuscripts, both written and orally. The analysis of how the authors constructed their arguments, answering cases of conscience or writing pastoral works, indicates that a sphere of formal and somehow erudite juridical life existed in Portuguese America. It was undeniably smaller in comparison with other normative orders, but, even though, one cannot deny its relevance. The structure and contents of sermons, manuals for confessors and cases of conscience, prove the circulation of formal erudite knowledge, albeit in a reduced scale: especially, the authors of cases of conscience used the authority of jurists and theologians in drawing conclusions for particular cases and even asked relevant theologians for help.

Notwithstanding, there are more open questions than answers given. It is hard to evaluate the real influence of moral theology on ordinary colonial life. The influence is presumably high among the people who attended the classes at Jesuit colleges and, probably, those who lived in areas where secular or regular clergymen acted, as well as in the mission areas, but there were vast areas not controlled by the Church. Moreover, the relations between the indigenous people and the religious men were not always friendly, especially regarding native slavery. As to the sources, there are still many challenges: despite the destruction of the Jesuit archives in the wake of the expulsion in 1759, it is possible that documents considered lost by the historiography might be found in certain archives. If, for example, some of the academic theses defended in the colleges, or further *responsa* to cases of conscience were discovered, this process of constructing a new juridical space in colonial Brazil could even be better understood.

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