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Nação legal consciousness and its contribution to the seventeenth-century Dutch Republic debate on slavery and the slave trade

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Nação Legal Consciousness and its Contribution to the Seventeenth-Century
Dutch Republic Debate on Slavery and the Slave Trade

ACADEMISCH PROEFSCHRIFT

ter verkrijging van de graad van doctor

aan de Universiteit van Amsterdam

op gezag van de Rector Magnificus

prof. dr. ir. K.I.J. Maex

ten overstaan van een door het College voor Promoties ingestelde commissie,

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door Yehonatan Elazar De Mota

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In Loving Memory of My Father Ramon Mota Martínez
4th of Elul 5778

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PREFACE

On March 6, 1857, in *Dred Scott v. Sandford*, the United States Supreme Court ruled that *black* people were not American citizens and could not sue in courts of law. The Court ruled against Dred Scott, an enslaved black man who sued for his freedom (Vishneski 373-90). Despite the various civil and social movements of the twentieth century against racism and discrimination, these issues continue to linger in the psyche and ethos of the human experience. In the United States of America, many innocent persons are incarcerated periodically on the presumption of being guilty (due to their skin color). The *McMillian v. the State of Alabama* case of 1993 and many others attest to this fact. Being “black” is still equated with impurity and inferiority in many societies around the world. As I write this, people from all over the world are protesting about the murder of George Floyd (May 25, 2020) by a Minneapolis law enforcement official, along with three other accomplices. The Black Lives Matter Movement has taken upon itself to riot and protest in the streets of the United States of America. People are tired of the inequality and the abuse. Furthermore, the use of the Arabic word for servant/slave [*abd*] is connected to being “black.” It is used as a derogatory name for dark-skinned people in the Middle East. The continual use of such racist language is the enduring legacy of a past with slavery.

Every day, migrants around the world are auctioned off on slave markets due to their ethnicity. Take for example Libya, Somalia, Ethiopia, or the Persian Gulf. With so many human

rights campaigns and media coverage, one wonders how can this be possible. Why can we not put at an end to such abuse of human rights? Notwithstanding the enactment of Article 8 of the International Covenant on Civil and Political Rights (ICCPR), that “No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited,” we are still dealing with this reality in various parts of the world.

Anne-Charlotte Martineau criticizes how international lawyers tend to view international law as stepping in to abolish the slave trade in the nineteenth century. She argues that this creates an unduly positive outlook of the law and lawyers. On the contrary, legal rules and their institutions have often been used to advance the desires of greedy men, thereby perpetuating injustices that lawyers do not see, nor want to see (Martineau 238). Therefore, she claims that this is not only naïve, but dangerous.

We must end the culture of silence around the world. The attitudes against “blackness” and “black” people are still very much alive everywhere. The myth of the “Curse of *Ḥam*” and its lasting influence must be dismantled, rejected, and uprooted from human psychology, language, and media. Indeed, it has been utilized by law enforcement officials, political leaders, and theologians as a justification for the disenfranchisement and/or enslavement of dark-skinned peoples.

The archival materials consulted herein can supply limitless answers to questions posed by various historians. Due to my training in rabbinical studies and cultural anthropology, I am inclined to ask questions related to Jewish law and Christian theology. In addition, I am a member of the contemporary *Ez Ḥaim* community in Amsterdam, and a descendant of *Nação*

merchants that migrated to the Caribbean to engage in trade. Thus, to some extent, this research project provides an existential experience for myself and the contemporary *Nação*, wherever we may be in our diaspora.

What did seventeenth-century Portuguese Jewish plantation owners do at Passover in the New World colonies? (Davis, “Regaining Jerusalem” 11) How is it possible to having been enslaved, yet to enslave others? Every year during the Spring season Jews celebrate Passover. During this festival, Jews commemorate their emancipation from cruel Egyptian bondage. Indeed, the Exodus story acquired deeper significance for the Sephardim during the Inquisition time period. Western Sephardic communities in Europe and abroad had a special fund for the rescuing of family members imprisoned by the *Santo Oficio* of the Spanish Inquisition. In fact, every year on *Yom Kippur* [Jewish Day of Atonement] the Western Sephardim pray for the deliverance of *los prisioneros de la Inquisición* [Prisoners of the Inquisition]. How then did Amsterdam’s Portuguese Jewish community in the seventeenth century justify the systematic enslavement of Africans, while redeeming their brethren from the clutches of the Inquisition?

On the one hand, I cringe upon discovering the dealings of the *Nação* in the Atlantic slave trade, and on the other hand, I want to tell a story that does not portray my ancestral community as a group of ruthless elitists. Surely, there is an inherent struggle to want to hide the dark chapters of our history. In doing so, I would not be true to this research. Therefore, I have come to terms with it and will expose the good, the bad, and the ugly.

The Hague, 2020

Yehonatan Elazar-DeMota

ABBREVIATIONS¹

TALMUD

y. for Jerusalem.

b. for Babylonian.

Mishnah

m. for Mishnah

TRACTATES

Abod. Zar.

B. Bat.

B. Mezi'a

B. Qam.

Ber.

Giṭ

Ḥul.

Ketub.

Miqv

Pesaḥ.

Qidd.

Šabb.

Šebu.

Yebam.

OTHER RABBINIC WORKS

Oraḥ Ḥayyim *OH*

Yoreh De'ah *YD*

Hilekhoth *Hil.*

Mishneh Torah M.T.

Abodah Zarah

Baba Batra

Baba Mezi'a

Baba Qamma

Berakhoth

Giṭtin

Ḥullin

Ketubboth

Miqva'oth

Pesaḥim

Qiddushin

Shabbath

Shebu'oth

Yebamoth

¹ “Chicago Manual of Style / Society of Biblical Literature Citation Quick Guide.” *Benjamin Cardozo School of Law*. Yeshiva University. Web. 21 Feb. 2016.

TRANSLITERATION GUIDE

Hebrew	English	Arabic
א	‘	ا
ב	B	ب
ג	Gh	غ
ג	G	ج
ד	D	د
ה	H	ه
ו	V	و
ז	Z	ز
ח	Ḥ	ح
ט	Ṭ	ط
י	Y	ي
כ	Kh	خ
כ	K	ك
ל	L	ل
מ	M	م
נ	N	ن
ס	S	س
ע	‘	ع
פ	F	ف
צ	Ṣ	ص
ק	Q	ق
ר	R	ر
ש	Sh	ش
ת	T	ت
ת	Th	ث

Alexander, Patrick, et al. *The SBL Handbook of style for ancient Near Eastern, Biblical and Christian studies*, Peabody: Society of Biblical Literature, 1999.

APPENDIX OF HEBREW TERMS

Halakhah—practical Jewish law or jurisprudence.

Ma'amad—governing body of the Sephardic community.

Midrash—an exegetical study of the Hebrew Bible.

Miqveh—a bath used for the purposes of removing ritual/ceremonial impurity.

Mishnah—is the first major written collection of the Jewish oral legal traditions.

Talmud—body of Jewish law comprised of 63 volumes.

Tanḥuma—three different collections of exegetical studies and stories based on the Pentateuch.

Tam'e/teme'a—the status of ritual impurity

Torah—the Law of Moses. Known as the Pentateuch in Christian tradition.

Yahid—Jewish community member

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