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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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6.

The *Nação* in Amsterdam: Intra-Communal Discussions on Slavery and Slave Trade

“Twas mercy brought me from my Pagan land

Taught my benighted soul to understand

That there’s a God, that there’s a Savior too;

Once I redemption neither sought nor knew.

Some view our sable race with scornful eye,

‘Their color is a diabolic die.’

Remember, Christians, Negros, black as Cain

May be refin’d, and join th’angelic train.”

(Wheatley 13)

6.1 Introduction

After having reconstructed the legal, theological, and ideological debates in sixteenth-century Iberia and the seventeenth-century Dutch Republic concerning slavery and the slave trade, this chapter continues with an examination of *Nação* jurists' *halakhic* rulings within the same time period. Some scholars have researched the involvement of Jews in slavery and slave trade during the medieval and early modern periods. The first academic scholar on the issue of slavery in the Muslim world within the Jewish community was Simcha Asaf (91-125). Then in 2004, Jonathan Schorsch revived the Jewish slavery debate in *Jews and Blacks*. Therein he argues that the Portuguese Jews that were involved in the African slave trade did so because of their Iberian culture, and not due to their understanding of *halakhah*. In 2006, Yaron ben-Naeh explores the slaveholding phenomenon of Jewish households in the urban centers of the Ottoman Empire between the sixteenth and nineteenth centuries (315-332). He maintains that female manumitted slaves of Slavic origin became an integral part of the Ottoman Jewish community in the early modern period. In a similar fashion, this chapter explores the same phenomenon among the *Nação* communities in West Africa, Amsterdam, and the West Indies, in which *black* African manumitted men and women became part of their respective communities.

Filipa Ribeiro da Silva reconstructs a historical narrative of the participation of the Amsterdam Jewish community in the trade with western Africa and the organization of these activities and their articulation between various ports in both continents. She seeks to “fill the gap in the historiography” by examining the mechanisms used by the Sephardi merchants living in the Dutch Republic to finance and insure the ships operating in this trade network (“Portuguese Sephardi of Amsterdam”). Her research is crucial to this chapter as it supplements the archival material contained herein. Upon examining the Zeeland WIC archives, Jessica Vance Roitman asserts that Jews were supplied a sufficient quantity of slaves if they chose to migrate from the Zeeland province of the Netherlands to the Wild Coast (296). She further maintains that “the competition for Jewish settlers in the Americas must be placed in its global economic, political, and religious context” (294). Although I agree with Schorsch that the *Nação* participated in the African slave trade due to their Iberian *hidalgura* [attitudes of nobility], I posit that a study on their *halakhic* discourse is crucial for understanding their legal consciousness, since it shaped the moral lens through which they operated and was also shaped through it. Accordingly, this chapter entails an analysis of relevant texts which I chose in order to reconstruct the seventeenth-century context concerning Jewish attitudes and slavery practice. The chosen texts deal with the intra-communal discussions and justifications for slavery and slave trading of the *Nação* in Amsterdam. They exhibit the terms *siervo/servo and esclavo/escravo*. Isaac S. Emmanuel (1899 – 1972), Rabbi and chronicler of the Sephardic community in Curaçao, stated that Jews in the New World started their slave trading endeavors in Brazil and continued to

do so in Amsterdam as either buyers or sellers (75).¹⁸ Building on this fact, this chapter proceeds to examine how *Nação* rabbis in Amsterdam mobilized the “Curse of *Ḥam*” theory and *halakhic* notions to justify their own *modus operandi* concerning slave trading, and that of their congregants. To my knowledge, no one has gone into depth on the *halakhic* slavery discourse of the Portuguese Jewish community in seventeenth-century Amsterdam.

Section 6.2 highlights the *halakhic* commentaries that *Nação* rabbis used in Amsterdam and the New World in order to justify the enslavement and trade of *black* Africans across the Atlantic. To this end, a focus on the Babylonian Talmud (*Gittin*), Moses Maimonides’ [Rambam] (1135 – 1204) *Mishneh Torah*, David Ibn Abi Zimra’s [Radbaz] (1479 – 1573) *responsum* [a rabbinic response to questions pertaining to Jewish law] on slaves, and a *responsum* by Raphael Meldola (1685–1748) dealing with a case concerning Caribbean slavery. I argue that *Nação* rabbis developed *halakhic* justifications for slavery and slave trading through a synthesis of texts, which were motivated by socioeconomic factors within the Iberian peninsula, and the Dutch Republic and its colonies.

Section 6.3 explores the linguistic conventions used by the *Nação* regarding slavery. Many primary sources are included in this section, some of which are preserved in their original hand-written format. These manuscripts are located within the *Livraria Montesinos* from the *Ez Ḥaim* Jewish community and the *Studia Rosenthaliana*, which house texts that have been preserved for over 200 years. One must keep in mind that the transmission of texts is unusual. They were printed by authorized printers in Amsterdam, with the approval of the board of

¹⁸ In 1673 N. & N. Deliaan offered the Company 500 African slaves for consignment to its Cadix agents. Two years later Jan de Lio (João de Yllan), as the agent of others, proposed selling the Company 1,500-2,000 slaves from Rio Calabary. West India Company Archive [WICA] 330, meeting of March 7, 1675, 111.

directors of the *Ez Haim* Jewish community. If anyone printed a literary work in Spanish or Hebrew, without the authorization of the board of trustees, the congregant would forfeit his right to receiving communal funds (GAA 334, No. 19, fol. 110, *ascama* No. 37). Within the literary works, one will find all kinds of knowledge: astronomy, psychology, theology, medicine, Greco-Roman philosophy and law, rabbinic books, and Spanish poetry, to name a few. For the purposes of this research, the Ferrara Bible (1553) was chosen as a target text because it is the official Spanish Bible translation used by Sephardi Jews in the sixteenth and seventeenth centuries. Much attention is given to the word *siervo* in pertinent passages in the book of Genesis and Leviticus. I then analyze a few Biblical commentaries of *Nação* rabbis and scholars, to see how they interpreted these passages. The chosen texts are as follows: Abraham Pharar's *Declaração das 613 Encomendas* (1627); Menasseh b. Israel's *Thesouro dos Dinim* (1645–1647); Isaac Athias' *Thesoro de Preceptos* (1649); and Isaac Aboab da Fonseca's *Parafrasis comentado del Pentateuco* (1681). These texts demonstrate how the terms *siervo* and *escravo* were used throughout the course of the seventeenth century. The argument is that the terms *esclavo* and *escravo* were used especially after the *Nação* became prominent in the slave trade between the West Indies and South America. Also, the linguistic change from *siervo* and *servo* to *esclavo* and *escravo* correlates to the modifications in the Spanish-Portuguese medieval slavery codes, as discussed in Chapter 4.¹⁹

Section 6.4 explores the communal stance regarding the manumission of slaves within the *Nação* community in Amsterdam and abroad. For that matter, the communal ordinances from the *Nação* communities in Amsterdam, Brazil, and Suriname are examined in order to

¹⁹ All translations from the Hebrew/Aramaic, Spanish, and Portuguese texts are mine.

reconstruct the Jewish attitudes toward persons of African origin and slaves, within the respective communities.

Section 6.5 details how Jewish messianism in the seventeenth century was a motivating factor for the use of slaves on plantations. Funds were collected from all the *Nação* communities and distributed to the poor of Jerusalem. This section highlights the sociological justifications for the use of slaves in the *Nação* community, whether domestically or on the plantations. Finally, there is a discussion on how *hidalgura* was integral to the *Nação's* ethos, such that certain labors were considered beneath them. Overall, this chapter demonstrates how *Ez Haim's* Jews contributed to the legal-political discussions of *ius naturae et gentium* within the Amsterdam-Dutch Republic debate on slavery and slave trade.

6.2 An Analysis of Slavery *Halakhah*: From the Bible until Seventeenth-Century Amsterdam²⁰

In Sephardic Jewish jurisprudence all *halakhah* [practical law] is derived from the Pentateuch and the Prophets. *Halakhah* is established through the thirteen hermeneutical rules as expounded by Rabbi Ishmael (95 – 135 C.E.). The legal discussions and decisions are found in the Jerusalem Talmud (c. 375 C.E.) (Zelcer 49), and the Babylonian Talmud (ca. 500 C.E.) (Neusner ix). National *halakhah* was decided within the framework of the Jewish Senate, namely the Sanhedrin [seventy one Supreme Court judges]. After judges Rab Ashi (352 – 427 C.E.) and Rabina (d. 427 C.E.) compiled the Babylonian Talmud, there could be no new national legislations for the Jewish People. With the destruction of the Jewish commonwealth in the Holy

²⁰ This section contains some information from my blog *Legal Aspects of Jewish Slavery Law in Eighteenth-Century Amsterdam* on the Global Cities Project website: <https://www.asser.nl/global-city/news-and-events/legal-aspects-of-jewish-slavery-law-in-eighteenth-century-amsterdam/>, reproduced here with permission.

Land in 70 C.E., the center of Jewish academia moved to Babylon, where three schools of Jewish legal thought flourished until about the end of the tenth century: Pumbedita, Nehardea, and Zura. The *Geonim* were the rabbinic authorities and teachers from these three schools, following the period after the closing of the Talmud; they answered the novel cases of *halakhah* that emerged, serving as interpreters of Talmudic legislation. They also contributed to the social and political construction of Jews in the diaspora (Abrahamas chap. V). The *Geonim* composed hymns and invocations, thereby fixing the order of the liturgy. Although Hebrew and Aramaic were the main languages used by Jews, Arabic eventually became the *lingua franca*. Jews from all over the world directed their questions on the Bible and *halakhah* to the heads of the school in Babylon and Persia. The questions and answers were compiled in the body of literature known as *she'eloth u-Teshuboth* [ש"ו"ת]. The *Geonic* period (550 – 1050) gave rise to Judeo-Arabic literature, which linked the rabbinic academies of Babylon with those in Islamic Spain (Brody, “Gaon, Geonim, Gaonic Academies” 196; “The Geonim of Babylonia” chap. 20). Toward the end of this period, Moses b. Ḥanokh left Zura for Al-Andalus along with three other scholars. His intellectual contribution led to the eminence of the Lucena Talmudic academy. After the devastation of Babylonian Jewry in the eleventh century, Córdoba became the *Mecca* of Jewish scholarship. Jewish education included not only religious knowledge, but also knowledge of Greek and Arabic philosophy, mathematics, and metaphysics.

The Moors invaded Spain in 711 C.E., controlling most of the Iberian Peninsula for many centuries thereafter, initially under the Umayyad Caliphate. Jews had been settling there already since before the first century C.E.. Under Christian rule, they were subject to forced conversions, massacres, and persecution from the fifth century C.E.. As *dhimmi* [protected citizen of the

Islamic State] under Muslim rule, the Iberian Jews were protected as *ahl kitab* [people of the Book (Arabic: أهل الكتاب 'Ahl al-Kitāb) An Islamic term referring to Jews, Christians, and Sabians and sometimes applied to members of other religions such as Zoroastrians]. According to some scholars, the Golden Era for the Spanish Jews was between 912 – 1090. The great Sephardi luminaries, such as Moses Maimonides, Judah Halevi (c. 1075 – 1141), Abraham b. Ezra (1089 – 1167), Ḥasdai Ibn Shaprut (910 – 970), Samuel Ibn Naghrillah [HaNaGid] (993 – 1056), Solomon Ibn Gabirol (1021 – 1058), and Dunash b. Labrat (920 – 990) lived during the Golden Era in Spain. Córdoba became a center for learning, Jewish scholars came there from all parts of the world to learn philosophy, astronomy, mathematics, physics, logic, and Jewish jurisprudence. The death of Al-Hakam II Ibn Abd-ar-Rahman in 976 marked the beginning of the dissolving of the Córdoba Caliphate. The 1066 Granada massacre on 30 December was the first great major persecution of Jews. A Muslim mob overtook the royal palace in Granada, crucified Jewish vizier Joseph Ibn Naghrela and massacred most of the Jewish population of the city. Over 4,000 Jews perished in one day. This was the end of the Córdoba Caliphate and the Jewish Golden Age in Spain (Gottheil et al. “Granada”).

The *Geonic* literature was disseminated throughout Islamic Spain by way of the two students of the last *Geonim* of Babylon: Ḥananel B. Ḥushiel [Rabbenu Ḥananel] (990 – 1053) and Nissim Gaon [Rabbenu Nissim] (990 – 1062). Both of them authored commentaries on the Babylonian Talmud, but Rabbenu Ḥananel also offered some commentary on the Jerusalem Talmud. Algerian-born Talmudic scholar, Isaac Ha-Cohen Alfasi [Rif] (1013 – 1103) studied under both Rabbenu Ḥananel and Rabbenu Nissim. After embarking on a ten-year endeavor, the Rif managed to compile the practical conclusions of the Talmud (*Sefer he-Halakhoth*) in a clear

and concise way. In 1089, after living in Fez for forty years, he relocated to Al-Andalus where he became the head of the Talmudic Seminary in Lucena (Dubnov 643). Alfasi's work had a profound affect on Maimonides, which led him to author the *Mishneh Torah* published in 1180 C.E. (Kraemer 60).

Talmudic-legal thought in Spain was characterized by three main schools: Andalusia, Aragón, and Catalonia. The Andalusian conceptions of Talmudic thought came directly from the *Geonim* in Babylon and North Africa. However, the legal thought of the Catalonians came from the rabbis of Provence and the Rhineland regions. The Aragonese School was a hybrid between Andalusia and Catalonia. Whereas the Andalusian School implemented the *'iyun* [scrutiny] method of the Babylonian Talmud, the Catalonian School derived law with the *pilpul* [casuistry] method from the Jerusalem and Babylonian Talmud, as characterized by the *Tosaphist* method. This difference of methodological approach produced different theoretical understandings and *halakhic* applications among the Spanish communities. The champion of the Andalusian school was Maimonides [Rambam], Nahmanides [Ramban] for the Catalonians, and Shelomo b. Abraham Ibn Aderet [Rashba] (1235 – 1310) for Aragonese Jewry.

After being expelled from Iberia, many Jews relocated to places in Italy with preexisting Jewish communities. Prior to the reception of Iberian exiles, the Jewish legal tradition in Italy had a long-established approach to *halakhic* reasoning. Many Italian jurists based their decisions on the understanding of the Franco-German *Tosaphists* and the tenth-century *Arukh*, a lexicon written by Nathan b. Yehiel of Rome (Tirosh-Rothschild 255). Moreover, Italy was very important for Jewish scholarship in general, due to the printing press in Ferrara. The first printed versions of classic Jewish texts appeared there. A distinguishing fact of Padua was that Jews

were allowed to study at its renowned university (Eisenberg 12). While there, they combined Jewish studies with humanities. Such an atmosphere encouraged *halakhic* reasoning expressed in Roman legal language (Bonfil, “Rabbis and Jewish Communities in Renaissance Italy”). In the seventeenth century, some Italian-trained jurists relocated to Amsterdam and disseminated the Italian legal tradition at the *Ez Haim* Seminary.

Slavery *halakhah* was constantly modified, from the Biblical period until the modern period. Slavery *halakhah* initiated in the biblical time period until the second commonwealth of the Jews in the Holy Land. Some scholars claim that rabbis living in the Holy Land during the Roman era were not only familiar with Roman law, but also influenced by it (Hezser “The Impact of Household Slaves on the Jewish Family in Roman Palestine”; Likhovski, “Recent Trends in the Study of the Intellectual History of Law and Jewish Law Scholarship”; B. Cohen 274). If so, then these influences would be reflected in slavery *halakhah*. It was then transformed during the Talmudic period. Thereafter, during the *Geonic* period (589 – 1040), slavery *halakhah* changed due to interactions with Christians and Muslims. Next, in the medieval time period, Jewish authorities developed slavery *halakhah* within Islamic Spain and the Christian Rhineland region. Then, after the initiation of the Iberian-African trade of slaves, rabbinic authorities wrote *responsa* involving slavery *halakhah*. In the early modern period, *Nação* rabbis constructed legal arguments in light of the Atlantic slave trade. Overall, Hebraic legal scholars reworked slavery *halakhah* over a period of two thousand years.

During the biblical period, there were two types of *slavery*: Hebrew servitude and Canaanite slavery. Hebrew servitude refers to the service that a biblical Israelite underwent for a period of six years to get out of debt. At the beginning of the seventh year, the Hebrew servant

was released from his or her service and clear all debts. Canaanite slavery refers to those non-Hebrew slaves who were held captive as prisoners of war from the seven nations of the land of Canaan. The latter can be equated to *servitus in ius gentium* in Roman law. As in Roman law, where slaves are taken as captives within the context of war, so it is biblical Canaanite slavery. After the devastation of the first Israelite commonwealth (ca. sixth century B.C.E.), Hebrew slavery became obsolete (Elazar-DeMota, “Legal Aspects of Jewish Slavery Law”). During the second Jewish commonwealth (ca. second century C.E.), three jurists discussed the limits of “Canaanite” slavery. This term was applied to any non-Jewish person who was purchased as a slave by Jews (b.Horayyoth 13a), regardless of descent. Henceforth, in order to avoid confusion with this linguistic conundrum, when referring to this type of slavery, I will refer to it as *postbiblical slavery* (Elazar-DeMota, “Legal Aspects of Jewish Slavery Law”). The Torah precept states:

“Moreover of the children of the strangers that do sojourn among you, of them may ye buy, and of their families that are with you, which they have begotten in your land; and they may be your possession. And ye may make them an inheritance for your children after you, to hold for a possession: of them may ye take your bondmen forever; but over your brethren the children of Israel ye shall not rule, one over another, with rigor” (*ibid*, *Common English Bible*, Lev. 25:45-6).

Canaanite slaves were not freed throughout the Biblical time period. However, during the Talmudic period, manumission resulted in “nationalization” to the Jewish People:

The Sages taught in a *baraita* [an authoritative tradition]: One may maintain slaves that are not circumcised under one's control; this is the statement of Rabbi Ishmael. Rabbi Aqiba says: One may not maintain such slaves, even for a moment... Rabbi Joshua b. Levi said: In the case of one who purchases a slave from a gentile and the slave does not wish to be circumcised, he abides with him up to twelve months. If, after this period, he will still not be circumcised, he then sells him on to gentiles (b. Yebamoth 48b).

This legal discussion is the basis upon which *postbiblical slavery* rests. To every Talmudic discussion of jurisprudence, there are at least two legal opinions. This discussion includes the opinion of three jurists, namely, Rabbi Aqiba, Rabbi Ishmael, and Rabbi Joshua b. Levi. Rabbi Aqiba states that a male slave must be circumcised immediately, upon purchase. Rabbi Ishmael states that one can keep his male slave while uncircumcised. Rabbi Joshua b. Levi states that the Jewish owner has up to twelve months to convince his male slave to undergo circumcision, after which he must be immersed in a ritual bath. *Postbiblical slavery* in the Talmudic period and thereafter, had a fundamental difference from biblical Canaanite slavery: the former was (1) not restricted to ethnic Canaanites, (2) permitted the emancipation of slaves, and (3) could result in the nationalization of the former slave to the Jewish People (b. Horayyoth 13a; b. Yebamoth 48b).

During the *Geonic* period, Jews had slaves mainly for domestic purposes. Rabbi Hai Gaon (939 – 1038) rules “In a place where [Jews] fear that unconverted slaves will reveal Jewish secrets to those who seek after Jewish souls and blood and bring danger or war upon Jews, unconverted slaves should not be retained at all” (“Shaare Zedeq: Teshuboth HaGeonim” No.

431). However, *a priori*, one should follow the *halakhah* according to the ruling of Joshua b. Levi, i.e. sell him after twelve months. Evidently, Hai Gaon ruled the *halakhah* according to Ishmael, keeping the slave uncircumcised due to bitter experiences with insincere Jewish proselytes. Rabbi Amram Gaon (810 – 875 C.E.) rules that “one cannot keep a slave that does not want to voluntarily join the Jewish People. One should understand that upon manumission, the slave had full status within the Jewish community” (“Shaare Zedeq: Teshuboth HaGeonim” No. 18). Rabbi Cohen Zedeq Gaon (ca. 935) maintains that the Jewish master must circumcise the male slave immediately, upon purchase. On the other hand, if the purchaser had made a stipulation to circumcise the male slave at a later date, he had up to twelve months to do so. Otherwise, the master must sell the slave (“Shaare Zedeq: Teshuboth HaGeonim” No. 20). Isaac Ha-Cohen Alfasi rules that the “application of these laws do not apply unless the slave voluntarily accepts to become a Jew or Jewess” (Teshuboth Rif). Both Amram Gaon and Ha-Cohen Alfasi held the strict position to limit *postbiblical slavery*, whereas, Cohen Zedeq Gaon maintained the lenient ruling of Aqiba.

Prior to 1492, Sephardi rabbinic deciders of *halakhah* also made rulings on *postbiblical slavery* in different ways. Moses Maimonides codifies the law:

When a person purchases a slave from a gentile without making a stipulation beforehand, and the slave does not desire to be circumcised or to accept the precepts incumbent upon slaves, he is given leeway for twelve months. If at the end of this period, he still does not desire, the master must sell him to a gentile or to the diaspora. If the slave made a stipulation with the master at the outset that he did not have to circumcise himself, the

owner may maintain him as a gentile for as long as he desires and may sell him to a gentile or the diaspora (Mishneh Torah, Laws of Slaves, chap. 8).

According to this ruling, one can keep an uncircumcised male slave, if and only if the owner made a stipulation at the beginning, and if the slave keeps the seven Noahide laws [The seven Noahide precepts are: not to commit idolatry, not to commit adultery, not to kill, not to steal, not to blaspheme the God's name, not to eat a limb of a live animal, to institute judges and tribunals. (Israel, "Thesouro dos Dinim" Tractate No. 3 On the laws of the Sabbath, 282). The Rambam also states that "a slave can be kept without any time constraints." Initially, the Rambam codifies the *halakhah* according to the legal opinion of Cohen Zedeq Gaon, but adds that the slave must keep the seven Noahide laws [Refer to section 7.2 on the seven Noahide laws and natural law]. Next, Asher b. Jehiel [Rosh] (1250–1327) decides the law: In these countries where it is prohibited to convert any non Jew, he is like the slave whose master stipulated *a priori* to not circumcise him, and the master may keep him uncircumcised as long as he desires ("Shulhan Arukh" YD 267:9)²¹. This *pesaq halakhah* [rabbinic legal opinion] reflects the political context within the Spanish Christian kingdoms, where Jews were prohibited from proselytizing. Instead of deciding according to the lenient opinion of Aqiba, the Rosh decided slavery *halakhah* according to the legal opinion of Ishmael.

Throughout this development of postbiblical slavery *halakhah*, one witnesses a divergence from Iberian scholasticism. Scholastics held that slaves were those prisoners captured within the context of a *just war and that servitus* was not a natural condition (Brett, "Liberty,

²¹ He was a German-born rabbi who later moved to Toledo, Spain.

Right, and Nature” 184). In postbiblical slavery *halakhah*, there is no discussion on the acquisition of slaves. It is assumed that the Jewish People can purchase slaves *de iure*, i.e. as a legally recognized practice. According to *Las Siete Partidas* those persons that could be enslaved were: non-Christian prisoners of wars, persons condemned for crimes, indebted persons who succumbed to voluntary slavery, and the offspring of enslaved mothers (“Las Siete Partidas” Code 4:XXI:1). On the other hand, postbiblical slavery *halakhah* permits the Jewish People to only purchase persons foreign to them, with the intention of introducing them *ab initio* to the Hebrew covenant. When Maimonides codifies that a slave must keep the seven Noahide laws, he essentially lays the ground for a Jewish version of the natural law of nations [This will be discussed at length in Chapter 7]. Overall, in the medieval time period slavery *halakhah* underwent some modifications, due to socio-political factors.

By the time of the Alhambra Decree of 1492, the Spanish and Portuguese kingdoms were already engaging in West Coast African slavery, taking slaves to the Iberian Peninsula and the Atlantic islands. The involvement of Iberian Jews in slave trading was minimal before the fifteenth century (Schorsch, “Jews and Blacks” 50). Sephardic Jews were accustomed to purchasing *black* Africans to use as domestic servants. Non-Jewish servants formed part of Jewish households, since they could perform tasks on the Sabbath which were forbidden to Jews (78). According to the Inquisition records of the Canary Islands and Portugal, there are many cases of African ex-slaves who were accused of being judaizers, implying that they had been proselytized by their Jewish owners (Wolf 22). In his *Historia da Riti Ebraice* (1637), the Venetian rabbi, Leone da Modena states one can keep a slave without circumcision and without immersion, and only after freeing him could the ex-slave become a Jew (Drescher 13). Da

Modena bases his *pesaq halakhah* on the understanding that circumcision and the first ritual immersion of a male slave only gave him a quasi-Jewish status, obligating him to the same precepts as a woman. Only after the second immersion does the slave become a full-fledged Jew. Ergo, da Modena gives a lenient legal opinion. This ruling became the basis by which post-Expulsion Sephardi rabbinic scholars determined slavery *halakhah* for their respective communities. The Radbaz, while residing in Egypt, decides just like Maimonides, but adds, “in the Land of Israel, all slaves must be converted; outside the Land of Israel, it is permitted to keep them without conversion” (Responsa Radbaz” 4:50). The Radbaz’s *pesaq halakhah* is what ultimately Portuguese Jews used to justify their transferring thousands of African slaves across the Atlantic, as reflected in the *responsa* of Raphael Meldola in the *Peri Ez Haim*.

Rabbinic scholars at the Seminary of *Ez Haim* produced a journal of legal *responsa*, spanning from the seventeenth to the eighteenth centuries. These twelve volumes consist of questions and legal analyses on various *halakhic* matters, which were addressed to rabbinic students from the *Ez Haim* Seminary. It is of no surprise that the issues of slavery and slave trading were addressed in this journal. One such case involved a slave owner in one of the colonies of the Dutch Antilles who addresses his concern to the Amsterdam rabbi, David son of Raphael Meldola in 1767:

A Jew [Reuben] lives on one of the islands and plans to travel to Amsterdam, but does not want to travel with his maidservant (slave) because of the legal prohibitions there regarding holding slaves or trading in slaves, and lest she runs away and escapes from him while traveling there. A close friend [Shimeon] of Reuben offers to take care of the

maidservant while he [Reuben] is away. Two years later, the maidservant became pregnant and her master [Reuben] hears about this and wants to know about her and the child. Shimeon returns the maidservant to Reuben, but keeps the child, since he was born under Shimeon's care. The issue is that the Reuben's maidservant became pregnant from Shimeon's male slave, while Reuben was away. Reuben, regards the child as an extension of the maidservant, and therefore also his property ("Responsa Peri Ez Haim" Vol. 5, 239).

It is usual and customary for scholars of *halakhah* to use the generic names *Reuben* and *Shimeon* in order to set up a hypothetical situation or to avoid embarrassing the actual parties involved. The rabbinic response to this case reflects legal precedents dealing with marriage and slavery *halakhah* from the Talmud, and the legal decisions of Maimonides. The verdict is that any child born from the maidservant under the care of *Shimeon*, belongs to *Reuben*, since the mother is his property. In addition, David Meldola states that his opinion is in compliance with the laws of the islands, where the entire trade consisted of slaves and slave labor. His ruling reflects the Talmudic principle *diná deMalkhutá diná*, i.e. the law of the land is the law, when financial matters are involved. Even though this case is from the eighteenth century, it reveals a number of realities of the seventeenth century Dutch Republic.

With over a thousand years of the practice of slavery, the use of slaves and slave trade was part of the *modus operandi* of the Jewish People. Based on my experience with the archives of the *Ez Haim* community, I have yet to find any indications of anti-slavery sentiments from any rabbi or thinker in the seventeenth century. In fact, it was not until 1767 that a rabbi from the

community issues statement against the application of *postbiblical* slavery: “the precept to work the [Talmudic] Canaanite slave forever does not apply at this time” (“Responso Peri Ez Haim” 4/5: 227a, no. 474). First, the case reveals the reality of slavery and slave trading by the *Nação* in the West Indies. Second, it highlights that slavery and slave trading were not allowed in the Netherlands. Third, it demonstrates that slaves were considered legal property of their owners [*dominica potestas*] and that the children follow the status of the mother [*ancilla*]. Herein, seventeenth-century Dutch Roman law and *halakhah* converge. Finally, it reveals that *Nação* rabbis in Amsterdam issued communal legal rulings, according to the civil law of the country of jurisdiction.

Upon examining the biblical and Talmudic discussions on slavery, it is evident that the biblical Canaanite war slave became a legal generic term for any non-Jewish slave regardless of descent (b.Horayoth 13a). Whereas in the biblical time period, Canaanite slaves were to be perpetually enslaved, Talmudic law permitted the manumission of slaves. Upon examining post-Talmudic rulings on *postbiblical slavery*, one can see how Rabbi Ishmael’s legal position became more prevalent, such that it became possible to maintain a perpetual slave. As Jews transitioned out of the Islamic kingdoms of Babylon and into the Christian lands of Western Europe, the rabbinic rulings concerning slavery reflected the *law of the land*, i.e., the prohibition of circumcision of non-Jews and their conversion. Hence, with so much legal history and practice in slavery and slave trade, *Nação* merchants in the seventeenth-century Dutch context were able to engage in Atlantic slave trade, without much debate among themselves, due to their understanding of slavery *halakhah*. In the Netherlands they had to present their slaves as household servants, but abroad they maintained both plantation and domestic slaves. The latter

were usually women who gave children to their masters and sometimes were manumitted, forming part of the family unit and the community (Ben-Ur, “A Matriarchal Matter”). On the other hand, the former were destined to work in the sugar cane fields, without hope of emancipation. Slavery *halakhah* afforded masters to own their slaves as property, and stipulate a condition not to manumit them, if the law of the land did not permit proselytization [through circumcision]. This explains why most manumitted slaves were women. Ergo, *Nação* plantation owners did not ritually-immense their male slaves *a priori*, in order to meet the demand for plantation labor. As such, the *Nação* forged a conception of law which permitted *servitus* and slave trade outside of the context of a *just war*. This is where Grotius’ conception of *servitus in ius naturale* [Refer to section 5.4] may have served the *Nação* in its endeavor.

6.3 Intra-Communal *Halakhic* Discussions

In Chapter four I argued that the terms *siervo* and *servo* were commonly used in the Spanish and Portuguese medieval and early modern civil codes, until the reality of the Atlantic slave trade pressed for the adoption of *esclavo* and *escravo*. In this section, I analyze the same key concepts and force used in various Jewish texts, to gain insight into the *Nação*’s ideas about New World plantation slaves and domestic servants in the Netherlands and West Africa. The first text to be analyzed will be the Ferrara Bible. I argue that the use of *siervo* in the Ferrara Bible and its revisions produced by Sephardi scholars in seventeenth-century Amsterdam served as a protective fence from outsiders of the Jewish community, lest the city authorities accuse the Jews of violating the civil law against slavery. Herein, *halakhah* intersects with the law of nations and nature, as understood by Dutch jurists at the time.

Next, I examine Abraham Pharar's use of *siervo kenahanita* and *servo* in his *halakhic* treatise in *Declaração das 613 Encomendações da nossa Sancta Ley* (1627)²². Moreover, I bring to the forefront how Isaac Athias uses *siervo pagano* to refer to the non-Jewish slave in his *Thesoro de Preceptos*. Finally, I analyze how Menasseh b. Israel used the terms *servo* and *escravo* to distinguish between two types of slaves: one that was manumitted after twelve months and adopts the Jewish tradition, and the one that rejected the voluntary naturalization into the Jewish Nation and is sold after twelve months of servitude. In doing so, I substantiate the claim that language was manipulated in order to create different categories of servitude, and in some cases to bypass anti-slavery laws in the Netherlands. Thus, *halakhah* prevails over legal conceptions of *libertas*, which express that no one is born in *servitus* and that *dominium* belongs to those created in *imagine Dei*.

After the expulsion of the Jews from Spain (1492) it became necessary for the exiles to produce a Spanish translation of the Hebrew Bible for the sake of *conversos* who did not have access to the Bible in Hebrew (Rodrigue Schwarzwald 119). The Ferrara Bible was printed in Italy in 1553 in the Spanish language (Wiener 41-3). The preface of the Ferrara Bible begins: *Biblia Hebrayca, en lengua Española, traduzida palabra por palabra de la verdad Hebrayca, por muy excelentes letrados, vista y examinada por officio de la Inquisición, con privilegio del Yllustrissimo Señor Duque de Ferrara* [Hebrew Bible, in the Spanish language, translated word-for-word from the true Hebrew, by very excellent lettered persons, seen and examined by the office of the Inquisition, through the privilege of Lord Duke of Ferrara] (Lazar 345). The learned men that prepared the translation were fifteenth-century Sephardi exiles: Abraham Usque [Daniel

²² Consult the Ets Haim Library for a printed copy.

Pinel] and Yom-Tov Levi Atias [Jerónimo Vargas] (Vainfas 521). In 1611, the first edition of the Ferrara Bible was printed in Amsterdam. It was revised and reprinted in 1630, 1646, and 1661, the latter of which included a revision by Menasseh b. Israel (524).

All of the Ferrara Bible versions used by the *Nação* in Amsterdam, use *siervo* throughout. In Genesis 9:25 the text reads: *Y dixo, maldito Kenaan: siervo de siervos, sea a sus hermanos* [And he said, cursed be Canaan: a servant of servants shall he be to his brothers] (my translation). In Leviticus 25:44–46 it reads:

Y tu siervo y tu sierva que seran a ti de con las gentes que en vuestros derredores, dellos compareys siervo y sierva. Y tambien de hijos de los moradizos, los peregrinantes con vos, de ellos comprareys y de su linage que con vos, que fueron nacidos en vuestra tierra: y seran a vos por possession. Y hareys heredar a ellos para vuestros hijos empos vos, para heredar possession; para siempre...

Regarding male or female servants that you are allowed to have: You can buy a male or a female slave from the nations that are around you. You can also buy them from the foreign guests who live with you and from their extended families that are with you, who were born in your land. These can belong to you as property. You can pass them on to your children as inheritance that they can own as permanent property
(Common English Bible).

The use of *siervo* in these verses and not *esclavo* raises an interesting question: Why do neither the Ferrara Bibles published in Amsterdam, nor the burial register of the Portuguese Jewish cemetery in Amsterdam reflect the use of *esclavo* or *escravo*, as seen in the *Ordenações Manuelinas* and *Ordenações Filipinas*? (Hagoort 39). A possible answer to these questions could be what Dienke Hondius (2008) notes, i.e., that the Portuguese *escravo* disappears from the *Beth Haim* records around “the beginning of the seventeenth century, possibly to avoid controversy about the ambivalent status of slaves” and the free soil tradition (Hondius, “Black Africans in Seventeenth-Century Amsterdam” 96). The intentional choice of language concealed the *halakhic* notions of *postbiblical slavery*, reserving the use of *esclavo* and *escravo* to intra-communal discussions at the *Ez Haim* rabbinic Seminary.

Abraham Pharar (Francisco Lopes d’Azevedo), a former *converso*, was born in Porto, Portugal in 1582. He had practiced as a physician in Lisbon before arriving to the Netherlands. While in Amsterdam, he engaged in the commerce of sugar, grain, and wax. Pharar was one of the founding members of the Beth Jacob community, and became the president of *Talmud Torah Ez Haim* community in 1639. Abraham Pharar was known for opposing some views of the rabbinate, nonetheless, he was a close friend of Menasseh b. Israel (Pharar, “Studia Rosenthaliana” 50-1).

As many Portuguese-speaking *conversos* arrived in Amsterdam, it was necessary to provide them with a formal Jewish education in Spanish and Portuguese [the key languages of instruction], since they were without a working knowledge of Hebrew. One of the earliest *halakhic* texts written in Portuguese for the newcomers was Abraham Pharar’s *Declaração das 613 Encomendaças da nossa Sancta Ley* [Declaration of the 613 precepts of our Holy Law]

(Bodian, “Hebrews of the Portuguese Nation” 106-7). In this *halakhic* treatise, Pharar enumerates the 613 precepts of the Torah and explains each one with their *halakhic* ramifications and contemporary interpretations and applications. He organizes the precepts according to positive and negative categories, i.e., 248 precepts to fulfill or accomplish, and the 365 prohibitions, according to the tradition of Moses Maimonides in his *Mishneh Torah*.

In the positive precept number 235, the heading states: *Servirse del siervo kenahanita* [To serve oneself with a Canaanite servant]. Interestingly, this title is in Spanish, while the explanation of the precept is in Portuguese. This demonstrates the use of both languages by the intended audience. The positive precept to “serve oneself with a Canaanite servant” is based on the verse in Leviticus 25:46. Pharar cites directly from the Ferrara Bible, “*Y hareys heredar a ellos para vuestros hijos empos vos, para heredar possession; para siempre con ellos vos serviredes*” [And you shall cause them to be inherited by your children after you, to inherit them as a possession; you shall serve yourself with them forever]. Then he explains, “the nature of this precept is; that we serve ourselves with Canaanite servants, and that we do not emancipate them, except when the owner damages the servant’s tooth, an eye, or another organ; in that case, one is obliged to set the servant free; as the Law states, in its place.” Up until this point his explanation is strictly an explanation of what was the *modus operandi* of the Israelites until the destruction of the first Temple in Jerusalem (457 B.C.E.).

According to this Torah precept, the Israelites were not supposed to ever manumit Canaanite slaves, but rather possessed them as property forever, and left them as inherited property for their posterity. Pharar continues his explanation: if the master marries his *servo* to a Jewish woman, or places *tefillin* [Also called phylacteries, are a set of small black leather boxes

containing scrolls of parchment inscribed with verses from the Torah] on his head, or calls him to the public Torah reading to read three verses, or other things such as these, which are not obligated to him [the *servo*], except to *free* persons; such a *servo* will be *free* and it will be incumbent upon the master to write the *servo* a bill of manumission (b.Gittin 40a).

Joseph Dov Soloveitchik (1903 – 1993) asserts that “slavery cannot harmonize with God’s unity and the acceptance of his commandments expressed in the four parchments contained in the *tefillin*” (85). Also, if a slave is called up to read the Torah in public and says the blessing for the reading, he annuls his slave status, because he becomes bound to the Creator (*ibid*). One learns from this explanation that Pharar understood freedom [*libertas*] to be unburdened with enslavement [*servitus*], whether born or liberated. Thus, having the *right* to govern oneself [*dominium*] and do as one pleases implies *freedom*.

Moreover, Pharar continues his explanation, “Therefore, everyone should be careful not to do any of these things, lest he come to annul this positive precept” (positive precept No.235). Here he issues a warning to slave holders that they be careful in not manumitting their slaves by giving them participation in the holy communal rituals. It should be duly noted that the application of this precept does not specify the nature of female Canaanite slaves. The silence on this matter grants leniencies to Sephardi slave owners to marry female slaves, by manumitting them according to Talmudic *halakhah*. José da Silva Horta explains this phenomenon in sixteenth and seventeenth-century Senegal “A species of Portuguese, people who refer to themselves in this way because they used to serve, and are descended from, those who first lived along this coast...From the negresses whom they married, were born these *mulattos*, from whom in turn came even darker ones” (65). This practice of freeing African slave women in the

Portuguese colonies for the purposes of marriage became widespread in seventeenth-century Dutch Brazilian and Surinamese Jewish communities (Ben-Ur, “A Matriarchal Matter”; Davis, “Regaining Jerusalem” 11-38; Wolff, “Diccionario Biográfico”).

Pharar concludes his explanation on the precept to not manumit one’s slave:

The obligation of this precept applies everywhere, at all times; to men and women. Still, it is prohibited for women to purchase male slaves, and if they do, it is a sin to give them *freedom*; therefore, they shall sell them. Whoever transgresses freeing his *servo*, except for the occasion of a need of the community; has annulled a positive precept (positive precept No. 235).

Here, Abraham Pharar censures a slave owner who liberates a slave by stating that doing so is a sin. In order to avoid transgression due to the manumission of a slave, one should sell the slave to a fellow Jew. A former *converso*, having been raised in a Catholic environment would surely have experienced the psychological effects of what it meant to sin. Upon reading this explanation, a Sephardi colonist would understand that slaves are not to be manumitted, but either used or sold to someone else. The language implemented by Pharar reveals that he interprets this precept *de iure* [a right] of Jewish law. Thus, according to Jewish divine law, his justification for the institution of slavery is twofold: it is a positive precept, and a transgression of the Torah if one frees a slave. Hence, Pharar’s *siervo kenahanita* is an unpaid worker that is destined to serve Jews until he or she expires.

As Portuguese *conversos* continued to migrate to the Amsterdam, it became necessary to provide them with comprehensive *halakhic* works in Portuguese. Consequently, Menasseh b. Israel translated Yosef Karo's (1488 – 1575) entire *Shulḥan Arukh* into Portuguese, under the name *Thesouro dos Dinim* [A Treasury of the Laws] (1645). He organized *halakhah* according to tractates, sections, and chapters. Apart from being a translation of the Hebrew original, Menasseh added cultural nuances that lend insight to the sociology of Portuguese Jews at the time. *Thesouro dos Dinim* reveals the reality of New World slavery and slave trading. Indeed, Menasseh b. Israel has much to say about the treatment of slaves.

In chapter one of the third tractate, which deals with Ownership and Possession, Menasseh b. Israel details the laws of the *escravos*, i.e. slaves. The use of *escravo* as opposed to *servo* reveals his deliberate choice and use of the same political language found in the *Ordenações Manuelinas* and *Ordenações Filipinas*. Menasseh begins his explanation on these laws:

The goods that humans possess in this world can be reduced to two types: animate and inanimate. The animate are divided into two categories; rational, like *escravos e escravas* [men and women in bondage]: irrational, like birds and quadrupeds. The inanimate are organized according to three types, and they are, fields, houses, and movables. We will speak about these things [each] in their [own] section, regarding their laws, which is our interest in this work [My translation]

(“*Thesouro dos Dinim*” Tractate No. 3 On Slaves, 181).

The use of “animate” and “inanimate” demonstrates that he was familiar with the legal language of the *Lex Aquila* (ca. 3 B.C.E.), which was applicable in the Roman Republic. The third chapter of the *Lex Aquila* deals with damages to animate and inanimate property, except for the killing of slaves or cattle (Melville 428). This use of language is crucial because it reveals that the author is familiar with Roman law.

Alan Watson asserts, “Killing and wounding another’s slave, whether deliberately or negligently, also gave the owner a civil action for damages under a statute called the *Lex Aquila*” (Watson, “Slave Law in the Americas” 32). Moreover, he argues that one should not think that slaves do not necessarily lack legal personality in a slaveholding society, even though a slave is property he is nonetheless a human being, and some of his “human characteristics can be taken into account by law” (*ibid*). In saying “human characteristics,” Watson means that slaves have rational capabilities, thereby recognizing the slave’s humanity by placing restraints on cruel mastery. In the same vein, Menasseh states:

Even though a master can rule harshly over his slaves, nevertheless it is a work of compassion to treat them kindly in deeds and words, utilizing all kinds of softness and benevolence. Even though they are slaves, not deserving any respect from their master, they are humans, and one should keep all the laws of humanity toward them (Tractate No. 3 On Slaves, 183-84).

One should take note that this addition does not exist in the original Hebrew version of the *Shulhan Arukh*. Surely, these words were addressed to the Sephardi merchants who engaged in the Atlantic slave trade.

Herein I raise two arguments, depending on the ritual status of the slaves: one that has been circumcised and immersed; and one that lacks both. In the case of the former, one could argue that, according to Menasseh, slaveholding is a privilege and not a right, since according to *halakhah*, a ritually-immersed slave can be emancipated in the case of certain types of abuse (Maimonides, “Mishneh Torah” Laws of Slaves 5:8). However, this emancipation only applies to the *servo de Israel*, as will be explained, and not the *escravo não-banhado*. Menasseh’s insistence that “they are humans” potentially adds to the argument that enslaved people have natural legal personality [*persona*] since they can appear before the Jewish courts to report abuse [This recalls the *Imago Dei* doctrine]. So, even though a slave owned by a Jew is considered to be property, nevertheless, the slave possesses minimal rights and protection. On the contrary, the prevailing view of the Roman slave was that he was a *thing* and not a *person*. In fact, he could not appear in court. Nonetheless, there were numerous provisions that protected Roman slaves from harsh treatment (Shumway 636-53). However, according to *halakhah*, a slave that has not been circumcised and ritually immersed is not emancipated upon abuse from his master. Thus, a master that owns this type of slave possesses the *right* to do so, demonstrating that this type of slave lacks legal *persona*, very much like the Roman slave. Hence, it is evident that this addendum is an exhortation to plantation slaveholders who have not ritually-immersed their slaves. Ergo, the fact that *halakhah* requires Jews to perpetually enslave their human property, it

is necessary to warn slave owners requires to keep the “laws of humanity towards them” [my translation] (Israel, “*Thesouro dos Dinim*” Tractate No. 3 On Slaves, 183-84).

But what are these laws of humanity? Where are they stipulated? Who determines them? If they refer to natural rights deserving of all humans, then are those rights determined by reason, nature, or divine law? If Menasseh implies *ius gentium*, is he alluding to customary law or agreements made by a majority of nations on how slaves are to be treated? In the next chapter (7.2), I explain how Abraham Pereyra utilized the term *La Ley de Humanidad* in his writings. Therein, I argue that in linking natural law with the law of nations, that Pereyra was familiar with primary and secondary categories of *ius naturae et gentium*, as utilized by Cicero and Gaius. Since Menasseh cites authors such as Gaius, Cicero, Thomas Aquinas, and Francisco Suárez, one can infer that his conception of *La Ley de Humanidad* is founded on Roman law. Suárez held that *ius gentium* was comprised of unwritten law based on the customs of all or almost all nations [*iura gentium, quae magis traditione et consuetudine quam constitutione aliqua introducta sunt*] (Focarelli 47). Furthermore, building on de Vitoria, Suárez distinguished between *ius gentium intra gentes* and *ius gentium inter gentes* (Vitoria, “*De Indis*” III, 1, 151). The former entailed the laws of individual states within themselves, whereas the latter was understood as a law between peoples and nations. Hence, slavery laws must fall under the category of *ius gentium intra gentes* (Barragán Yañéz 10). Pereyra’s utilizes *La Ley de Humanidad* [*ius gentium*] to denote secondary natural law. If Pereyra classifies slavery under the voluntary law of nations, then it is mutable, thereby dependent on the will of an individual state to permit or abolish slavery (Lesaffer, “The Classical Law of Nations” 21).

According to the rules of Thomas Aquinas, even though slaves were considered property, they were simultaneously regarded as persons, being granted the right to marry (Berg 178). Evidently, Menasseh synthesizes *halakhah* and Salamanca reasoning to create his own convention: a ritually-immersed slave that has almost full rights, and a slave without ritual immersion who lacks rights. Being that the non-immersed slave lacked legal personality before Jewish courts, Menasseh recommends Jewish slave owners to remember *La Ley de Humanidad*.

Menasseh introduces a linguistic novelty in this section to distinguish between two types of slaves owned by Jews: *servo de Israel* and *escravo não-banhado*, i.e., the servant of Israel and the non-immersed slave. In the eighth law, chapter one, on Ownership and Possession, he explains:

Someone that buys a gentile slave from another Israelite, or from a gentile or a non-Jew that sells himself to an Israelite, or that sells his sons or daughters, keeps his or her *Canaanite slave* [postbiblical] status. All of those that did not immerse themselves ritually [*não-banhado*], are to be considered gentiles in every matter; but those that have been ritually-immersed are called servants of Israel, and are obligated in all the precepts which behoove Israelite women to fulfill (Berg 178).

The *servo de Israel* undergoes a ritual immersion at the beginning of his or her service and at the end of it, after which he or she will be manumitted and become a full-fledged Jew or Jewess. This process must be voluntary. Indeed, Menasseh states therein, “When one purchases a gentile slave, one should not force him to change his religion, but shall tell him, *you have the*

opportunity to enter the community of servants of Israel, and will be counted among the good ones” (182). If the gentile slave accepts to enter the covenant then he is circumcised and immersed in a ritual bath. The slave is then warned about the rewards and punishment for keeping and violating the precepts of the Torah.

On the other hand, the *escravo não-banhado* is not circumcised and not immersed in the ritual bath. According to *halakhah* his owner must try to convince his slave to voluntarily accept the precepts of the Torah during a period of twelve months, after which he will be obligated to sell him to the gentiles (b.Yebamoth 48b). This *escravo* is only obligated to observe the seven precepts given to Noah, i.e. *La Ley Natural*. In fact, the *escravo não-banhado* is not obligated to rest on the Sabbath. This would imply that this *escravo* could potentially work on the plantation fields and manipulate fire on the Sabbath. Under the status of *Canaanite servant*, the *escravo não-banhado* is destined to be a perpetual slave, whereas the *servo de Israel* will serve a limited time, then obtain *freedom* as a member of the Jewish community. Thus, Menasseh calls the former *escravo* and the latter *servo*. Hence, his use of *escravo* conforms to the *Ordenações Manuelinas e Filipinas* on slaves in the New World.

Another important rabbi who contributed to the debate was Isaac Athias (Dias).²³ He was a former *converso*, born in 1585 in Lisbon, Portugal. He fled to Castile, and then to Venice (Elazar-DeMota, “Liberty and Freedom”; Athias 310). Afterwards, he moved to Amsterdam, where he “became a rabbinic scholar under the tutelage of Isaac Uzziel, during the same time as Menasseh b. Israel” (*ibid*). He was the first rabbi of the Portuguese congregation in Hamburg,

²³ This section contains some information from my blog *The Concept of Liberty and Freedom in the Bible Commentary of Ishac Athias* on the Global Cities Project website: <https://www.asser.nl/global-city/news-and-events/the-concept-of-liberty-and-freedom-in-the-bible-commentary-of-ishac-athias/>, reproduced here with permission.

and after 1622, became the rabbi of the Sephardi community in Venice (*ibid*; Gottheil et al. “Athias”).

In 1627, while still in Venice, he prepared *Thesoro de Preceptos*, “and printed a second edition in Amsterdam in 1649” (*ibid*). In the preface of his work he writes that he was inspired to prepare this treatise due to the “many Jews throughout the Sephardic diaspora did not have knowledge of Arabic, Hebrew, nor Aramaic to be able to understand the Talmud nor the commentaries thereof” (Elazar-DeMota, “Liberty and Freedom”). Writing in Spanish, he intended his audience to understand how the Oral Torah works together with the Written Torah (*ibid*). *Thesoro de Preceptos* follows the same format of the 613 positive and negative precepts in accordance with the tradition of Moses Maimonides (*ibid*).

The heading for the positive precept number 235, states: *Que nos sirvamos en perpetuo, del siervo Pagano* [That we serve ourselves perpetually with the Pagan servant]. Athias explains:

We cannot give him freedom, like we do with Hebrews...we call him Pagan, not because of his nationhood, and not because of his religion, because it is understood that he who has been circumcised and ritually immersed is a *siervo*; but the idolatrous Pagan that we purchase, if he doesn't abandon his rites, we cannot keep him for more than a year (Elazar-DeMota, “Liberty and Freedom”; positive precept No. 235).

The context utilizes *pagan* instead of *gentile*. Athias explains that the “epithet *pagan* is not due to the slave's religion, but the mere fact that he does not want to become a Hebrew” (*ibid*). In a similar fashion, Spanish scholastics utilize the term *saracen* for non-Christians (*ibid*; Somos

385). Athias' discourse supports the idea that a non-Jewish person can potentially serve the Jewish People through *slavery*. As such, those slaves which do not embrace the Hebrew covenant are called *siervos paganos*, or *paganos idólatras* [idolatrous Pagans], while the rest are called *siervos* [servants]. In utilizing the term *siervo* throughout, Athias agrees with the linguistic convention of the Ferrara Bible (Elazar-DeMota, "Freedom and Liberty").

Next, Athias adds his own comments which do not appear in Maimonides' *Mishneh Torah*:

That men can govern themselves without servitude and *criados* [houseboys] is impossible, because he [a Jew] lacks what is needed for human life; the Congregation of Israel is so occupied with holy labors, that they require others to give them rest. And using one's kinsmen for service is not just, because they are taken away from what their souls need. For that matter the LORD conceded and even obligated, that these would be perpetual *siervos*, since they, as foreigners, are exempt from the holy services... whoever serves the LORD should not serve men [my translation]

(*ibid*; "Thesoro de Preceptos" positive precept No. 235).

Athias justifies the use of slaves with three reasons: (1) That Jews are obligated in the holy services of the Congregation of Israel; (2) That Jews cannot serve two masters simultaneously; and therefore (3) That Jews cannot be slaves. Ultimately, Athias argues without servitude, self-governance is impossible. Undeniably, Isaac Athias endorses the "institution of perpetual slavery through the use of the *siervo pagano*" (Elazar-DeMota, "Freedom and Liberty"). Essentially,

Athias asserts that “Jews cannot be *free* without slaves” (*ibid*). Indeed, Athias agrees with Immanuel Aboab and Isaac Cardoso, who both maintain that having *dominium* signifies freedom from slavery and self-governance” (*ibid*).

This begs the question whether Athias puts forward that Jews cannot truly exercise freedom [*libertas*] without being *domini* [masters]? In the seventeenth century, commerce and free trade were the driving forces behind the notion of the natural right to private property and to exact debt (Straumann, “Natural Rights and Roman Law” 344). Certainly, the Dutch Atlantic slave trade transformed the previously-held legal conceptions of *dominium* and *libertas*, such that Dutch Protestant colonialists were granted by the Estates General the right to own slaves (Portuguese Jewish Community Amsterdam Archives 240, pp. 102-103), whereas Jews had to bargain for the privilege to do so (West Indies Company Archives [WICA] 566, pp. 574-76; WICA 205, p. 157; WICA 216; Old Archives of Curaçao at the Hague [OAC] 2, no. 224; WICA 243, pp. 171-72; OAC 315, no. 780). Before the Dutch engaged in the Atlantic slave trade, *libertas* was not understood in terms of *freedom* and *slavery* because the practice of slavery had gone out of use among Christians in the Netherlands. Also, for the same reason, *dominium* was not understood in relationship to ownership of people as property. The Atlantic slave trade influenced the concept of rights and privileges on behalf of Dutch Protestant Christians and Jews, respectively. It is evident that Athias drew on de Vitoria’s conception of *dominium*, i.e., to possess *dominium* over things, and to be a *dominus* or *princeps* of things and people [including one’s own person] (Bunge 53).²⁴

²⁴ Refer to section 4.2.

De Vitoria's conception of *dominium* suggests unity between "a concept of self-determination of a person based on legal allocation of private property claims on the one hand, and the *dominium* rights of a political community on the other" (*ibid*; Koskenniemi, "Vitoria and Us"). This political community is the *Nação* in Amsterdam, albeit, an immigrant one. It is possible that the feeling of *otherness* influenced Athias' interpretation of this precept. Just as de Vitoria utilized Aristotle's natural slavery argument in defense of the New World *Indians*' sovereignty, Isaac Athias followed suit in providing a rationale for the self-governance of the *Nação*, in the wake of the expulsion from Spain and amid the Inquisition. What is striking is how Athias can make such a claim, being that the story of the Exodus from Egyptian bondage serves as a touchstone for Jewish ethical reflection (Walzer, "Exodus and Revolution"). Ultimately, Athias' interpretation of *halakhah* was construed in such a way that it provided a legal and theological justification for the *Nação* to engage in slavery and slave trade.

The next rabbi to introduce to the slavery debate is Isaac Aboab da Fonseca (Simão Fonseca), a former *converso*. He was born in Casto D'Aire, Portugal in 1605 to David Aboab and Isabel da Fonseca (Yakserling 125-36). Out of fear of the Inquisition, he and his family fled to St. Jean de Luz, France, and then arrived in Amsterdam circa 1612, where they became members of the *Neveh Shalom* congregation. He became a student of Isaac Uzziel, together with Menasseh b. Israel and Isaac Athias. In 1626, he became the spiritual leader of *Neveh Shalom*. In 1641, Aboab da Fonseca went to Recife, Brazil to lead the nascent congregation, *Zur Israel*, becoming the first rabbi of the New World (Orfali 215). He returned to Amsterdam after 1654, and in 1656, he was appointed as the director of *Talmud Torah*, until his death in 1693 (216).

Many *conversos* continued to arrive in Amsterdam with the need to be educated as openly-practicing Jews. Amsterdam's seventeenth-century Sephardic community saw many works dedicated to this end. Aboab da Fonseca made a great contribution to the education of the newly-observant Jews in 1681 with his *Parafrasis comentado del Pentateuco* [Paraphrased commentary on the Pentateuch] (*ibid*). Jews have an obligation of reading the weekly Torah portion in Hebrew twice and the Aramaic translation of Anqelos once. In the Prologue of this work, he expressed his hope to provide an alternative to reading the *targum* Anqelos and Rashi's commentary of the Torah weekly readings. Since *conversos* arriving in Amsterdam did not have knowledge of Hebrew nor Aramaic to read those commentaries, Aboab da Fonseca provided a commentary in contemporary Spanish to be read in tandem with the Hebrew of the Pentateuch (222). When he prepared *Parafrasis comentado del Pentateuco*, the *Nação* in Amsterdam had been involved in the Atlantic slave trade for over forty years. This commentary reflects moreover his own experiences in Brazil and that of his coreligionists in the New World colonies (Israel, "Religious Toleration in Dutch Brazil" 29).

In his *Parafrasis comentado del Pentateuco*, Aboab da Fonseca uses the Spanish *esclavo* in reference to the biblical Canaanite slave. As mentioned earlier, Exodus 21 states, "When a slave owner hits and blinds the eye of a male or female slave, he should let the slave go free on account of the eye. If he knocks out a tooth of a male or female slave, he should let the slave go free on account of the tooth" (*Common English Bible*, Exod. 21: 26-27). Aboab da Fonseca comments on this verse:

Así lo dispuso la Piedad Divina, porque como estos eran esclavos perpetuos, de todo no desesperasen de la libertad, y para que su amo considerase el modo como los trataba, pues su dinero estaba tan contingente, y así eso no se entendía sino con el esclavo propio, porque siendo ajeno, pagaría a su amo el daño, pues era justo perdiese el amo su esclavo por causa de otro, y todo lo dicho se entiende con el esclavo Kenaanta.

This is what Divine Providence arranged, since these were perpetual slaves, that they would not despair completely, and so that their master would consider the way in which he treats them, and since his money was contingent, he would not understand except through his own slave, [say for instance] if the caused damage to someone else's slave, he would have to pay the owner for the [property] damages, as such, it was not fair that an owner loses his slave [set him free] on the cause of another [through damage]; and everything said here is understood of the Canaanite slave (249).

This explanation is crucial because the Hebrew text does not specify if the person to go free on account of damaged limbs refers to a Hebrew servant or a Canaanite slave. While the former goes free during the Sabbatical Year, the latter is perpetually enslaved (*Common English Bible*, Exod. 21:1-3). This explanation reflects the commentary of the French exegete, Rashi: "Of a Canaanite slave; but the Hebrew servant does not get free on account of his tooth or his eye having been knocked out by his master, as we have stated in our comment on the passage" [See earlier on the discussion on Pharar] (Herczeg Exod. 21:26-27). In other words, because the owner has invested money in purchasing his Canaanite slave, he would take extra care not to

damage his property, i.e. the *esclavo*. Hence, as reverted Sephardic Jews in Amsterdam read the weekly Torah portions, the use of terms in Isaac Aboab da Fonseca's *Parafrasis comentado del Pentateuco*—perpetual, Canaanite, and *esclavo*—became an automatic paradigm, connecting the holy text with contemporary *halakhah* amid the Atlantic Slave Trade.

In this section, I scrutinized the language used in various Jewish texts to reconstruct the ideological and linguistic context pertaining to slavery *halakhah*, as put forth by *Nação* rabbis in Amsterdam. The first text analyzed was the Ferrara Bible. This Spanish translation of the Hebrew Bible always uses the term *siervo* when related to slavery. When the *conversos* brought it to the seventeenth-century Dutch Republic, they made some modifications to it, but never changed *siervo* to *esclavo*, like Isaac Aboab da Fonseca does in *Parafrasis comentado del Pentateuco*. I posited that this use of language in the Ferrara Bible serves as buffer from outsiders of the Jewish community, since it was illegal to own slaves in the Netherlands. In order to hide their violation of this law, the *Nação* had stopped using all references to slaves in the burial registry in the early seventeenth century (Hondius, “Black Africans in Seventeenth-Century Amsterdam” 96). Abraham Pharar uses *siervo kenahanita* in his *halakhic* treatise in *Declaração das 613 Encomendações da nossa Sancta Ley* (positive precept No.235). Therein, he derives practical applications based on the biblical passage not to free the Canaanite slave. He concludes that it is a sin and a grave violation to free a slave. In his *Thesoro de Preceptos*, Isaac Athias uses *siervo pagano* to refer to the non-Jewish slave who is to be perpetually-enslaved. He posits that it is impossible that Jews can be *free* without the use of slaves to do domestic duties on their behalf. As such, *halakhah* prevails over the natural law of nations. Menasseh b. Israel uses *servo* and *escravo* to distinguish between two types of slaves: the one that abandons his

religion and accepts the Jewish tradition, resulting in manumission; the one that doesn't abandon his religion and must be sold after a year of service. The latter is resold from owner to owner, unless he accepts to become a Jew. Menasseh evokes the notion of *imago Dei*, arguing that slave owners should treat their slaves with kindness and give them respect as all humans deserve. It can be concluded that *Nação* rabbis manipulated language in order to create different categories of servitude in the colonies, and in the case of the Netherlands, to circumvent local law.

6.4 Communal Ordinances & Manumissions of Slaves²⁵

Each *Nação* community was led by its board of directors via ordinances, decrees, and bans and censorship. Hereafter, I will argue that the board of directors of *Ez Haim* in Amsterdam and the respective board of directors in the Dutch colonial Sephardic communities enacted ordinances to justify the systematic enslavement of *black* Africans. For this purpose, I selected several enactments from the *Nação* leaders in Amsterdam and abroad in order to reconstruct the political context within the community, i.e. how they dealt with African slaves on Dutch soil and in the colonies. In the case of the former, we witness a development of communal policy, reflecting the ambiguity of the *free soil tradition*. In the colonial context, the enactments are made *a priori* in order to ensure the survival of plantation economy.

In the *Libro dos termos da ymposta da nação, principado em 24 de Sebat 5382*, on the 20th of Tammuz 5387 [1627], the leaders of the three Portuguese Jewish communities convened

²⁵ This section contains some information from my blog *African blacks and Mulattos in the 17th-Century Amsterdam Portuguese Jewish community* on the Global Cities Project website: <https://www.asser.nl/global-city/news-and-events/african-blacks-and-mulattos-in-the-17th-century-amsterdam-portuguese-jewish-community/>, reproduced here with permission.

at the house of Benjamin Israel to discuss various matters and agree on ordinances for the Amsterdam Jewish community. They agreed the following:

First, that no *negro* or *mulatto* will be able to be buried in the cemetery except for those who had buried in it a Jewish mother;...And further...that none shall persuade any of the said *negros* and *mulattos*, man or woman, or any other person who is not of the nation of Israel to be made Jews; and it is particularly recommended to all men of the Law that they not admit them, just as people who have a [private] *miqveh* [ritual bath] not immerse them without the permission of the Gentlemen of the Board of Directors, for in this way...results in only scandal and offense to God; he who does the contrary, measures will be taken against him as disobedient (GAA 334, No. 13, fol. 42; Elazar-DeMota, “African blacks and Mulattos”).

This ordinance highlights the interactions between Amsterdam Sephardim and sub-Saharan Africans therein (*ibid*). Indeed, some Amsterdam Sephardim fathered *mulatto* children. Prior to this communal ordinance, members of the *Nação* in Amsterdam proselytized their African servants, initiating them into the Hebrew covenant by way of ritual immersion in private *miqvaoth* [ritual-bath houses]. Why was this ruling necessary for the emerging Sephardic community in Amsterdam? One could conclude that Sephardic merchants in Amsterdam must have owned *slaves*, since burial preparations in the Jewish cemetery were made on behalf of their *slaves* (*ibid*; Faber 16). Since it was not customary to use dark-skinned African slaves in the seventeenth-century Dutch Republic, the “Sephardim probably wanted to draw as little attention

to themselves as possible” (*ibid*). Importantly, this communal ordinance highlights the power of communal control under the direction of the *parnassim* which was enforced through penalties. The phrase, “results in only scandal and offense to God” projects the desires and feelings of the *parnassim* onto the Divinity (GAA 334, No. 13, fol. 42). Is this really an offense to God? The Hebrew term *Elohim* [God] is applied to the local Jewish tribunal of three judges. Essentially, the force of this language produces fear and trepidation in the hearts of the congregants so that they will obey the edict.

After the three Portuguese Jewish communities in Amsterdam merged in 1639, they established the ordinances for the newly-founded community. Similar to the 1627 ordinance, they established the following:

No person shall, except with the permission of the Gentlemen of the Board of directors, circumcise any person that is not of our Hebrew Nation, under the penalty of being separated from the *Nação*. The Gentlemen of the Board of directors do not grant permission to circumcise anyone, unless he is Portuguese or Spanish. And if the contrary became known, he will be obligated to declare it before the Gentlemen of the Board of Directors, under the said penalty (GAA, NA. nr. 334, inv. 19, pg. 56, ordinance no. 39; Schorsch, “Jews and Blacks” 175-76).

This communal ordinance is more specific than the previous one, such that it limits circumcision only to men of Iberian origin. However, this prohibition singles out men of non-Iberian origin, but not females, since only males are circumcised for the purposes of reverting or converting to

the Jewish People. The penalty for violating this ordinance is excision from the community. Jonathan Schorsch posits that circumcision was compared to the possession of *hidalguía*, which had become part of the internal identity of the *Nação* (“Jews and Blacks” 178). Moreover, he asserts that the Portuguese Jewish community was affected by “Portuguese Chauvinism,” thereby rejecting psychosomatic and somatic *blackness*, by prohibiting the entry of *blacks* into the community (202).

On the other hand, Dienke Hondius states, “Blackness is not always mentioned in the European records...in the Netherlands, unlike the situation in the colonies, a tinge of color did not define a person as black” (“Black Africans in Seventeenth-Century Amsterdam” 87). I agree with Allison Blakely, who asserts that the lack of explicit attention to *blackness* “may also be due to a lingering uneasiness with the participation in the African slave trade and slavery, which remained outlawed at home” (230). For that reason, the *Nação* community was most likely at ease to own *black* slaves in the colonies, as long as they were not reminded of their own *blackness* in the Netherlands. The “Curse of *Ḥam*” myth The “Curse of *Ḥam*” myth and these communal ordinances contributed to racial difference, which then influenced postbiblical slavery *halakhah*. This myth had formed part of Sephardic thought since the medieval Spanish Jewish period, as demonstrated in the writings of Sephardic biblical commentators (see infra section 3.3). The above ruling in 1627 “that none shall persuade any of the said *negros* and *mulattos*, man or woman, or any other person who is not of the nation of Israel to be made Jews; and it is particularly recommended to all men of the Law that they not admit them,” was established the same year that Pharar wrote his *Declaração das 613 Encomendaças* (GAA 334, No. 13, fol. 42). This goes to show that the *Nação* in Amsterdam constructed racial difference through their

halakhic works and interpretations of biblical passages dealing with slavery. The use of *negro* and *mulatto* alludes directly to the “Curse of *Ḥam*.”

Finally, in 1650, the trustees banned outright the circumcision or immersion of *negros* and *mulattos* who didn’t fit a narrow (and *halakhically* incorrect) definition of a *yehid bayit*, i.e., a slave born in the house of the master (Schorsch, “Jews and Blacks” 176). If it was unclear in 1639 ordinance that not only men of African origin, but also women, were banned from entering the *Nação*, the 1650 ordinance sealed the verdict. Yosef Kaplan estimates that there were about one-thousand Portuguese Jewish families in Amsterdam with only twelve dark-skinned servants by the late 1630s; these twelve were manumitted (ex)slaves (98). Despite this ruling, Schorsch maintains that the sources on this issue do not reveal the reality of the full context of slavery with Mediterranean and European Jewish communities and of African *blacks* (“Jews and Blacks” 101). Yet, archivist Mark Ponte claims that there were more than 200 persons of African origin living in Amsterdam in the seventeenth century, who were connected to the Portuguese Jewish community in some way (“De Swarten van de 17de EEUW”; “Tussen slavernij en vrijheid in Amsterdam” 253). Consequently, it is possible that between 1639 and 1650, the community of African (ex)slaves living in Amsterdam had exceeded the expected numbers for the *Nação* community, such that the Board of directors felt compelled to modify its rulings, conforming to the social-political context.

The minutes of the two Sephardic congregations in seventeenth-century Dutch Brazil: *Zur Israel* (Recife) and *Magen Abraham* (Maurícia) grant insight as to how the communal leaders managed Jewish identity in Brazil. When the Dutch were conquered by the Portuguese in northeastern Brazil, the Board of Directors fled, taking the minute book back to Amsterdam to be

archived. Prior to that event, however, the Gentlemen of the Board had convened on the first day of Kislev, 5409 (November 16, 1648), and enacted forty-two regulations for the communities.

The thirty-second regulation reads:

No person shall, except with the permission of the Gentlemen of the Board—
circumcise a stranger [non-Jew] or admit a strange woman [non-Jewess] to the *Tebilah* [ritual immersion], under penalty of being separated from the *Nação* and fined fifty florins. And if that person be a slave, he shall not be circumcised without first having been freed by his master, so that the master shall not be able to sell him from the moment the slave will have bound himself [to Judaism] (GAA, NA. nr. 334, inv. 1304, pg. 5, ordinance no. 32; Wiznitzer 271).

Contrary to Schorsch who argues that the *Nação* wanted to preserve its ethnic identity, Arnold Wiznitzer argues that the Gentlemen of the Board prohibited the circumcision of male slaves prior to their manumission in order to make it impossible for a Jewish owner to sell a slave who had been ritually converted to the Jewish tradition (“Jews and Blacks” 238). Notably, this ruling reveals the care in which the *Nação* community took to ensure that no Jewish person was a slave or servant of another person. In contrast to both Schorsch and Wiznitzer, I argue that this ruling reflects Abraham Pharar's condemnation of slave owners who freed their slaves, considering manumission a sin. Pharar recommended that *Nação* slave owners sell their slaves to their coreligionists, and not transgress on the cause of releasing them. Surely, the *Nação* in Brazil would have been familiar with Pharar's *Declaração das 613 Encomendaças da nossa Sancta*

Ley since it was published in 1627, over a decade before the establishment of the Brazilian Sephardic communities.

Similarly to the 1639 ordinance in Amsterdam, the Board of Directors in Brazil prohibited non-Jews from entering the *miqveh* [ritual bath] to perform *tebilah*. This ruling is crucial, since not only does it curtail the entrance of non-Jews into the community, but also controls with whom Jewish males can have sex (according to *halakhah*). In Egon and Frieda Wolff's *Dicionário Biográfico I: Judaizantes e Judeus No Brasil* (1986), there are many inquisitorial entries describing judaizing women in Brazil as being *mulatta*, *parda*, *preta*, *escrava*, and coming from Guinea (Wolff 21, 112, 194; GAA, Notary Adriaen Lock, Inv.Nr. 2267, folio 643: Rahel Monsalto). Evidently, these women were owned by Jewish men, had been taught the Jewish traditions, and perhaps had been naturalized through conversion. Moreover, the *Mishnah*, which comprises the whole of the Oral Torah, states that any Jewish male who has sexual relations with a menstruating woman will be spiritually excised from the People of Israel (m.Kerithoth 1:1).

Furthermore, the *halakhah* stipulates that a woman is considered to be *teme'a* [ritually-impure], therefore prohibited from sexual intercourse with her husband, until she has immersed in a *miqveh* (M.T., Issure Bi'ah 4:3). Ergo, as long as a female slave does not have access to the communal ritual bath, she can neither become a Jewess nor remove the ritual impurity due to her menses. Herein, I posit that the control of the ritual bath reflects Menasseh b. Israel's notion of the *escravo não-banhado*, who is not circumcised and who has not immersed in the *miqveh*. Menasseh's *Thesouro dos Dinim* was published only three years before this ruling was enacted in Brazil. Surely, the use the *escravo não-banhado* was an absolute necessity on the sugarcane

plantations. Hence, the *parnassim* secured the economic future of the community through ordinance number thirty-two.

Sephardim had been in Suriname since the English conquest of that colony. They had received many privileges, thus making it a haven for Jewish merchants. After the Dutch conquered Suriname in 1667 from the English, Sephardim started to flock there from Livorno and the neighboring Dutch colony in Guyana, while others left for Jamaica with the English (Klooster “Networks of Colonial Entrepreneurs” 31-49). In addition to being granted burgher status, the *Nação* was granted the liberty to govern their synagogues and administer the general affairs of their nation. These Jewish plantation owners settled and established a community in Thorarica. Already in 1662, the Board of Directors of the community convened and decreed the following ruling:

Em Este kaal ay huma escama feita no ano 5423 (1662/63) que Prohibe a cual quer Jahid so pena de herem a circonsidar os filhos do que sedespidue de Jahid. Esta escama que foy feita com Prudencia pelos Primeiros fundadores deste kaal (adterorem)

In this congregation there was a ruling made in the year 5423 (1662/63) which prohibits any *yahid* [community member], under the penalty of excision, to circumcise the children of anyone that has lost the status of *yahid*. This ruling was made with prudence by the first founders of this congregation (GAA, NA, nr. 334, inv. 1029).

This ruling distinguishes between two types of members of the Suriname Jewish community: *yahid* and *congregante* (Ben-Ur “Peripheral Inclusion” 188). The former is a full-fledged

member of the community by virtue of European descent, whereas the latter denotes either a Eurafrikan Jew, or a *yahid* which has been demoted as a penalty for marrying a female of African descent. Moreover, Portuguese Jewish men married their African slave women and manumitted them, introducing them into the Jewish community (Davis, "Regaining Jerusalem" 11-38). Thus, this ruling reveals a sociological reality of unions between Sephardic men and African women in Suriname. By prohibiting the circumcision of the children of the *congregante* there was no possible way to manumit them according to *halakhah*. Certainly, this ruling reflects the Talmudic decision of Rabbi Ishmael, who ruled that one can leave his male slaves uncircumcised. Ergo, I posit that this ruling establishes the perpetual enslavement of African males on the Suriname sugarcane plantations.

In this section, I argued that the Board of Directors of the *Nação* community in Amsterdam and abroad in the colonies regulated the Portuguese identity of the community by prohibiting the circumcision of African slaves, and also by controlling who can immerse in the ritual bath for the purposes of naturalization to the Jewish People. To support this claim, I examined the minutes and the regulations of *Nação* communities in Brazil, Suriname, and Amsterdam. It is evident through the similarity between the ordinances established in the *Nação* colonial communities and those rulings from the *Ez Haim* community in Amsterdam, that the latter established the model for its daughter communities in the colonies. The fact that the rulings include the penalty of excision reveals the gravity of the matter on the one hand, and the harsh reality of perpetual enslavement on the other. As the *Nação* became prominent in Brazil and Suriname through the sugarcane plantation economy, they had no choice but to construct arguments in favor of the non-manumission of their slaves, against the Talmudic legal ruling of

Rabbi Yehoshua b. Levi, i.e. to free them after twelve months in the case of an involuntary conversion. Hence, slavery *halakhah* became more stringent in regards to the manumission of slaves to accommodate the need of labor in the colonies.

6.5 Seventeenth-Century Messianism

The dependency of the Jewish plantation economy on slave labor went hand-in-hand with messianism in the seventeenth century. The *Nação* in the New World colonies played a crucial role in promoting the eminent arrival of the Jewish messiah through their profits gained through slave labor. There was/is a belief among Jews that if prayer ceases for a moment from Jerusalem, the world will return to its primeval chaos. In order to ensure that this never happens, no matter how small the population, Jews must be ever-present in the Holy City.

Before the fifteenth century, there were not many Jews living in Jerusalem. It was not until after the Sephardi exiles went to the Holy Land that Jerusalem became a center of Jewish scholarship. Beginning from 1510, more information is extant on the presence of Spanish exiles in Jerusalem, next to their counterparts from the other congregations (Avraham 65). Sephardim rose to dominance in Jerusalem from the 1520s to the mid-to-late 1570s, even absorbing some of the other congregations (*ibid*). Indeed, there were so many Sephardim in Jerusalem that the Arabic-speaking Jews therein adopted the Sephardi culture and languages. Furthermore, the influx of Iberian scholars and Kabbalists to Jerusalem revitalized Jerusalem as the center of Jewish scholarship (Levy 39). Sixteenth-century Jerusalem witnessed prominent scholars such as Levi ibn Ḥabib (ca. 1483 – 1545), David Ibn Abi Zimra (ca. 1479 – 1573), Bezalel Ashkenazi

(ca. 1520 – 1591) and Haim Vital (ca. 1479 – 1573). Hence, the tragedy of the expulsion from *Sepharad* brought a blessing in disguise for the Jerusalemite Jewish communities.

Through their money and influence, the *Nação* in South America and the Caribbean managed to send financial support to the Jews living in Jerusalem. The capital of the Ottoman Empire served as the center of a “far-flung philanthropic network in support of the Jews’ in *Erez Israel*, ‘linking Jewish communities throughout the empire and beyond, from the Caribbean in the west to India in the east, and from England in the north to Yemen in the south’” (Lehemann 1). Rabbinic emissaries were sent throughout the Jewish world, collecting pledges and contributions, which were then sent to Istanbul, and distributed in Jerusalem (2).

When the Ottoman Empire took over the region of the Holy Land, Jews were charged a tax, due to their *dhimmi* [non-Muslim citizens] status. In the latter part of the sixteenth century, when the Ottoman Empire began experiencing a revenue crisis, Jewish taxes increased, thus the task of taking care of the poor became heavier. Consequently, more centralized community structures began to mark their influence (Levy 65). For the purposes of taxation, the Ottomans instituted the office of *Hakham Bashi* [Chief Rabbi]. A lot of Jews’ money went to the poll tax for non-Muslim citizens, and toward bribing of Ottoman officials in the Holy Land. This created a deficit that haunted the Jewish communities therein. Sometimes the *qađi* [Islamic judge] in Jerusalem asked for more money. This became an increasing problem from the seventeenth until the nineteenth century.

According to Raphael Mordecai Malki (d. 1702), the Jews of Jerusalem were paying about 5,000 *kuruş* a year in taxes, even though Ottoman documents suggest that only about 2,000 *kuruş* of *djizya* were collected in the early 1700s. Malki also provided an estimate of the

financial needs of the Jerusalem community, indicating, on the one hand that the bulk of the budget was needed to keep up with the poll tax and other payments to the Ottoman provincial authorities and, on the other hand, that only the ongoing support from the Jewish Diaspora could sustain the Jerusalem community financially (Lehmann 24). This led Sephardi scholars from the Land of Israel to travel to the tropics of South America and the Caribbean, and to ask the *Nação* to support a continual existence of the Jewish community in Jerusalem.

Schorsch states, “it is clear that the slaves produced the income for their masters in the colonies” (“Jews and Blacks” 68). Most importantly, the communal records of charities and distribution of funds demonstrate that the *Nação* in Recife used to make regular contributions to the Holy Land via Amsterdam (Emmanuel 484). It was on *Shabbath Naḥamu* [The Sabbath after the Ninth of *Ab*] that Recife congregants made pledges for donations on behalf of the poor of the Holy Land (Wiznitzer 243). Hence, I argue that slave-trading profits in Brazil afforded the *Nação* the ability to sustain the economically-dependent Jewish community of Jerusalem.

Besides solidarity, what motivated and pressed the *Nação* to maintain the Jerusalem Jewish community? A year after the Jews of Recife were forced to emigrate to other places [1655], Menasseh b. Israel published his famous messianic writing, *Piedra gloriosa o de la estatua de Nebuchadnesar*, where he expresses his belief in the imminent establishment of the Fifth kingdom, i.e. the messianic kingdom (Wall, “The Dutch Hebraist Adam Boreel” 168). An influential factor in Jewish life about 1630 to 1640 was Lurianic Kabbalah, which promoted the messianic atmosphere of the time (173). One trigger for this revolution was the testimony of Antonio de Montezinos in 1644, who informed the Portuguese Jews in Amsterdam that he had discovered a remnant of the Lost Ten Tribes of Israel in South America (Miller 474).

In 1650, Menasseh published *Esperança de Israel*, a treatise on the forthcoming arrival of the Messiah. Therein, Menasseh mentions the tragic expulsion of the Jews from Iberia, the rare moment of European philo-semitism, and the recent discovery of the lost tribes of Israel in South America. His main premise is that the Israelites had been scattered to all the parts of the world, being the sign that the prophecy of Daniel 12:7 has been fulfilled, “when he saith, And when the dispersion of the Holy people shall be completed in all places, then shall all these things be completed” (*Common English Bible*) The result of this messianic frenzy led to the Shabbethai Zebi movement in 1665, when major rabbis of the Holy Land and the Ottoman Empire had declared Shabbethai Zebi to be the promised messiah (Goldish 136).

The maintenance of a Jewish presence in Jerusalem increased in importance due to the imminent establishment of God’s kingdom in Zion. Thus, while Sephardi merchants were accumulating huge profits through slave trading and the production of sugarcane, emissaries were being sent to Brazil and Amsterdam from the Holy Land to collect the *finta* [communal tax] in support of the poor of Jerusalem. Plantation slave economy and slave trade were also a means to an end. One of the motivating factors for the *halakhic* and legal justifications in favor of slave trade was the imminent arrival of the Jewish Messiah.

6.6 Conclusion: Slavery *Halakhah* Was Influenced by the African Slave Trade

This chapter explored the *halakhic* and theological justifications of the *Nação* in the Amsterdam seventeenth-century context. In section 6.2, the codification and application of slavery *halakha* was analyzed by exploring the *halakhic* commentaries used by *Nação* Rabbis to

justify the enslavement and trade of Africans across the Atlantic: the Babylonian Talmud, the *Mishneh Torah*, the Radbaz *responsum* on slaves, and Raphael Meldola's *responsum* in the *Peri Eẓ Haim*. Therein, I argued that *Nação* Rabbis developed *halakhic* justifications for slavery and slave trading by synthesizing a number of texts.

In section 6.3, the intra-communal *halakhic* discussions on slavery were brought to the forefront by examining the use of *siervo* and *escravo* terms used by the *Nação*, as seen in the Ferrara Bible and its revisions. The word *siervo* in relevant passages in the book of Genesis and Leviticus that deal with the enslavement of the Canaanites were examined. Then followed an analysis of the Biblical commentaries of *Nação* Rabbis and scholars: Abraham Pharar's *Declaração das 613 Encomendações*, Menasseh b. Israel's *Thesouro dos Dinim*, Isaac Athias' *Thesoro de Preceptos*, and Isaac Aboab da Fonseca's *Parafrasis comentado del Pentateuco*. These commentators highlight the use of the terms *siervo* and *escravo* throughout the entire seventeenth-century. The argument was that after the *Nação* engaged in the slave trade across the Atlantic, they adopted the terms *esclavo* and *escravo* instead of *siervo* and *servo*. This adoption correlates to the changes in *Ordenações Manuelinas* and *Filipinas*, as discussed in chapter 4.

Section 6.4 argued that slavery *halakhah* became more stringent in order to secure the work force on the colonial plantations. I reconstructed this context through an examination of the communal rulings from the *Nação* communities in Amsterdam, Brazil, and Suriname. I highlight how African slaves and persons of non-Iberian origin were kept away from entering the community through the control of the *miqveh* and circumcisions.

Moreover, section 6.5 explained how Jewish messianism in the seventeenth century was a driving force in maintaining the Jerusalemite community via a communal tax [*finta*]. Indeed, the

money used for such a purpose came directly from slave-trading profits in Brazil and Suriname. The *Nação* literature discussed herein and the communal rulings are telling.

Overall, the chapter at hand unveils the intra-communal discussions, justifications, and argumentations of the seventeenth-century *Nação* in Amsterdam and abroad to justify slavery and slave trading. At this stage it is evident that the *Nação* participated in the legal debate on slavery and the slave trade as the *other within*. As Jews, they established an international network based on kinships and religion. As Dutch residents, they contributed to the economy of the Republic and to the development of Dutch legal thought. As active participants in the slave trade, whether central or peripheral, they can no longer be ignored from the history of the development of early modern international law.

The next chapter will demonstrate how seventeenth-century Portuguese rabbis contributed to the slave and slave trade debate in Amsterdam, by translating slavery *halakhah* into Roman legal jargon. Therein, I will demonstrate how seventeenth-century *Nação* slavery *halakhah* relates to *ius naturae et gentium*, *dominium*, *libertas*, and *servitus*. In demonstrating these connections, one will be able to see how the *Nação* contributed to the *naturalization* of the law of nations.