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**Unintended Consequences:
Lessons from the Struggle for the Rights of Slaves in Colonial Brazil**

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At first, I was a bit unsure what I could contribute to a broad discussion of human rights. As a historian of times preceding the eras of revolution and enlightenment, I write mostly about people for whom the very idea of individual “rights” was still very much in its infancy, if existent at all. This was particularly true of the peoples who most concern me, enslaved Africans and their descendants. Yet, the more I reflected on the topic, the more I began to realize the potential of speaking to the present through the past. Though historians are usually loathe to think presently, some of the contradictions of early history might shine light on our assumptions about the contemporary impacts of individuals, institutions, and economic systems on human rights. What I hope to do here is trouble the idea of an institutional focus, pointing out the ways that institutional champions of human rights sometimes reinforced rights abuses, even as institutions that normally abused human rights sometimes endowed people with them.

In particular, I want to emphasize the roles of the Catholic Church, the colonial legal system, and the growth of an incipient merchant capitalism on the everyday lives of slaves in

Brazil. For many years, scholars have argued that Iberian legal and ecclesiastical institutions in the Americas mitigated African slavery, opening the way for African integration into colonial societies. In these formulations, Crown and Church served as protectors of the enslaved, claiming precedence over the property rights of individual masters, thereby opening social space for Africans in colonial society. Applications for justice, marriage choices, manumissions, etc., certainly made the Spanish and Portuguese institutions more flexible than their English counterparts; however, the scholarly focus on institutional outcomes usually ignores the actual impacts on people. In their attempts to demonstrate how legal and ecclesiastical institutions endowed slaves with certain bundles of rights, scholars fail to note how these institutions might have *negatively* impacted on the majority of the enslaved. By shifting the focus away from institutions, I hope to point to the limitations of these structures in addressing a “universal” human rights. In the case of Brazil, at least, the institutions of Crown and Church by no means worked in protecting the rights of all slaves equally.

For example, it has long been known that the primary beneficiaries of colonial legal codes were those who could negotiate the legal systems—i.e. American-born slaves conversant in the ways of colonial institutions. But nobody has questioned how the legal system might have transformed the structure of slavery itself in the Spanish and Portuguese worlds. Yes, slaves could enter into contracts with their masters and sue them if they reneged on their promise to grant freedom. Yes, large freed populations emerged in parts of the Spanish and Portuguese colonial worlds. And yes, this allowed for racial boundaries to appear less severe than in the British colonial world. But what this picture fails to address are the ways that this legal and social flexibility actually worked *against* first-generation

African slaves. Even as everyday obstacles of language, lack of knowledge of colonial institutions, and so on, limited African access to these institutions, this lack of knowledge acted as an affirmation that Africans were peculiarly unsuited for freedom. In other words, as American-born slaves asserted their legal and religious rights, the association between Africans and slavery actually deepened. Thus, a social hierarchy emerged within the institution, a hierarchy that reified African slavery as the prototype, while privileging creole forms of knowledge as recourse to injustice and a potential path to freedom. In this way, institutions we often associate with the protection of slave rights actually served to *diminish* the rights of the African majority.

This emphasis on European institutions and creole forms of knowledge skews our understanding of Latin American and Caribbean slavery toward the teleological inevitability of an Atlantic World in which African-descended creoles embraced the Crown and Church as protectors of their rights. To be sure, these are important topics. But whither the tens of thousands of Africans who never even learned to speak colonial languages, let alone negotiate the intricacies of the colonial institutions? We cannot reduce the African experience, or even the slave experience, to those who acculturated. Demographics alone suggest that Brazil was far more of an African space than a Portuguese one during the colonial period: Before 1700, more than five million Africans arrived in Brazil, while only a million Portuguese immigrated into the colony. Though very little work has been done to distinguish the ways in which African- versus American-born slaves interacted with colonial institutions, one can see sharp distinctions in eighteenth-century Brazil. Parish records from Rio and Bahia show that 9 out of 10 slave births were to unmarried, first-generation African mothers, strongly suggesting that Africans preferred to define family and kinship according

to their own imperatives, rather than those of the Catholic Church. The impacts of African difference can also be discerned in manumission decisions. In mid eighteenth century Rio de Janeiro, Central African men represented roughly 30% of the overall slave population. Yet, they accounted for less than one half of one percent of all manumissions. These statistics, along with more qualitative evidence, suggest that the histories of Africans in Brazil often took very different trajectories than those of their American-born counterparts. Certainly, there was overlap, but we should be more sensitive to these differences and recognize that the ability to claim human rights was often contingent on the mastery of a body of Western knowledge that was unavailable to the majority of the enslaved.

Confounding this problem of human rights for the enslaved was the reality that many enslaved Africans accepted, even embraced, the very system of chattel bondage we would normally assume they resisted. Former slaves frequently purchased slaves themselves. For example, between 1737 and 1741, at least 38 different freed men and women brought their own slaves to be baptized at Candelária Church in Rio de Janeiro. In addition to these cases, there were even instances where the enslaved owned slaves. Most former slaves exploited their slaves in much the same way as they had been exploited; however, there is also evidence that slave “ownership” sometimes protected friends and family. Those who had the economic means rescued husbands, sisters, and children by purchasing them. Though seemingly perverse, this “ownership” of an enslaved family member cohered with patron/client relationships that defined kinship patterns across much of Africa. Slavery simply underscored reciprocal obligations of “protection” and “service” that bound communities. The major difference was that these slave owners saw their “slaves” primarily as kin and not as commodities.

Ironically, even those Africans who were conceived by slaveowners purely as commodities sometimes embraced their own slavery. This was especially true in the burgeoning merchant communities of urban areas like Rio de Janeiro. Across Rio, slave owners hired out their slaves to perform all manner of skilled and unskilled labor—porters, peddlers, masons, blacksmiths, barbers, cobblers, etc. Many of these slaves enjoyed broad freedom of movement and freedom of association, liberties that were almost unheard of on rural, sugar plantations. Plying their trades across the region, some of these slaves earned significant amounts of money, most on behalf of their masters, but often with the opportunity to earn for themselves. In this way, urban slaves might be beholden to a master/patron, but they enjoyed considerable freedom to build lives and create new communities outside the purview of the master.

In one fascinating case from the 1740s, an enslaved African healer named Domingos Álvares worked independently on behalf of his master José Cardoso de Almeida. During the time he was Cardoso's slave, Domingos earned in one week what the average sugar plantation slave could produce monetarily in one year (roughly 35 mil réis). Precisely because of his tremendous earnings potential, Cardoso allowed Domingos almost full freedom, requiring only that he share with him the majority of his earnings. After just over a year in Cardoso's service, Domingos earned his manumission. Within months of being granted his liberty, the Portuguese Inquisition arrested Domingos for witchcraft. The irony here should be obvious: So long as Domingos was Cardoso's slave, earning him wealth, Domingos enjoyed a crucial series of rights. In this way, even the rawest forms of economic exploitation sometimes served to protect the basic human rights of the enslaved. However, as soon as Domingos gained his legal freedom, he no longer enjoyed the protection of his

master/patron and was exposed to ecclesiastical justice. Domingos was jailed, sent to Lisbon for trial, and eventually exiled to a rural outpost in southern Portugal. During his trial in Lisbon, Domingos acknowledged that slavery in Brazil was preferable to freedom in a Portuguese jail. Indeed, rather than claiming to be a freed man, he insisted to Inquisitors that he was still the slave of José Cardoso de Almeida.

So what are the lessons to be learned from these counterintuitive explorations of human rights for slaves? I think there are several. For those of us concerned with broader, global issues of human rights, we must be mindful of the ways that institutions—be they Churches, governments, or NGOs—sometimes exclude the very people whose rights are most threatened. The barriers to institutional aid are often linguistic, cultural, epistemological, and economic ones that become etched as permanent “difference,” irrevocably dooming to invisibility those who are unable to surmount the differences and appear clearly to Western eyes. In the worst cases, institutions meant to “protect,” like the Crown and Catholic Church for slaves in Brazil, inadvertently push the invisible ones further to the margins, jeopardizing their human rights in even more profound ways.

The second lesson is almost the inverse of the first one: In order to make visible those most in need of protection, we must be acutely aware of the variety of ways people understand “rights.” Most of us would agree that slavery was a universal evil. However, the cases from Brazil point to adaptations of chattel slavery that accommodated basic African kinship structures and patron/client relationships. For some Africans, slavery served the cause of freedom by reuniting kin and community. “Real,” individual freedom not only would have left people isolated, alone, and alienated from kin; it would have exposed them to unknown dangers. Indeed, for Domingos Álvares, legal manumission (“freedom”?)

amounted to his first real exposure to “slavery”—i.e. arrest, jail, and exile. Being aware of the constraints and consequences of “universal” human rights, the differing impacts of “freedom” on different groups of people, might help us see more clearly conceptions of rights that are tailored to the cultural imperatives of those seemingly most unfamiliar to us.