

Jesuit Arguments for Voluntary Slavery in Japan and Brazil

Defesas jesuítas da escravidão voluntária no Japão e no Brasil

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RESUMO

O presente artigo analisa como missionários da Companhia de Jesus defenderam a escravidão voluntária de nativos brasileiros e japoneses no século XVI. Apesar de cada caso ter sido defendido com argumentos distintos, uma análise comparada mostra que tanto no Brasil quanto no Japão as defesas partiram de pressupostos semelhantes – ambas foram construídas a partir de leituras sobre princípios do direito natural, e envolveram discussões a respeito dos limites das condições definidas por Prierias para a legitimidade da escravidão voluntária. As diferenças entre os casos resultam das suas conjunturas históricas: no Brasil, o debate entre Caxa e Nóbrega ocorreu no contexto do tutorismo, enquanto o caso japonês foi discutido durante a hegemonia da doutrina do probabilismo. Essa diferença torna-se fundamental para explicar os motivos da impossibilidade de defesa do primeiro caso, ao mesmo tempo que nos ajuda a entender a flexibilidade com a qual o segundo caso foi abordado.

Palavras-chave: jesuítas; escravidão; Brasil; Japão; teologia moral; casuística.

ABSTRACT

The present article analyzes how missionaries from the Society of Jesus argued in favor of the voluntary enslavement of Brazilians and Japanese in the sixteenth century. Although each case was defended with different arguments, a comparative analysis reveals that in both Brazil and Japan the Jesuits' defenses were based on similar premises – both were founded on readings of principles of natural law and discussed the limits to the conditions identified by Prierias regarding the legitimacy of voluntary slavery. The difference between the two cases derives from their historical contexts: in Brazil, the debate between Caxa and Nóbrega unfolded against the background of tutorism, while the Japanese case was discussed during the hegemony of the doctrine of probabilism. This difference becomes crucial to explaining the reasons why the first case was impossible to defend, while elucidating the flexibility with which the second case was approached. Keywords: Jesuits; slavery; Brazil; Japan; moral theology; casuistry.

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In 1985, Manuela Carneiro da Cunha published a pioneering article on the legal foundations regarding the enslavement of Brazilian indigenous people. It explained the contractual nature of early modern slavery and indicated a link between Jesuit ideas and a liberal interpretation of natural law (Cunha, 2017, pp. 169-181). Almost three decades later, José Eisenberg revisited the subject, focusing on the arguments of two Jesuits: Quirício Caxa, professor of Cases of Conscience at the College of Bahia, and Manuel da Nóbrega, one of the earliest members of the Society of Jesus mission in Brazil, drawing the attention of modern historiography to the debate (Eisenberg, 1998; Eisenberg, 2004). Since then, others have also explored the topic, particularly Carlos Zeron and Alfredo Storck (Zeron, 2011; Storck, 2012).

But even though the theological debate concerning Brazilian indigenous slavery has been the subject of important recent contributions, its contextualization remains problematic. While the so-called *Mesa de Consciência e Ordens* and missionaries in Brazil analyzed the enslavement of Brazilian indigenous peoples, the enslavement of Japanese by Europeans had provoked a similar debate on the other side of the Portuguese empire by the end of the century. In the 1590s, missionaries in Japan made the case defending their *modus operandi* in a questionnaire sent to Europe, where Spanish theologian Gabriel Vázquez judged the adequacy of their reasoning. Around the same time, Jesuits in Goa discussed Japanese slavery, categorizing each situation in a series of resolutions most probably intended to answer the same questions presented to Gabriel Vázquez.

In this text, I compare the defenses of voluntary slavery and self-alienation in Brazil and Japan, seeking to identify similarities in how the justifications for both cases were elaborated. First, I resume two defining texts of legal voluntary slavery in the Iberian context. Next, I analyze the Brazilian case, briefly presenting the arguments offered by Quirício Caxa in favor of the legitimacy of the practice of enslaving indigenous peoples. I then turn to analyze the arguments in favor of the *modus operandi* used in Japan by Jesuits for the enslavement of Japanese, focusing specifically on the case of voluntary slavery. I also discuss the as yet unpublished debate among the Goa Jesuits in response to the arguments of the missionaries in Japan. In conclusion, I compare the processes involved in elaborating justifications for voluntary slavery, considering the wider scenario of the transformations evident in moral theology by the second half of the sixteenth century.

DEFINING BOUNDARIES

When missionaries analyzed voluntary slavery in Brazil and Japan, the practice was already legally established in both civil law and moral theology. Because of space limitations, here this explanation will be restricted to two defining texts on the legal limits of voluntary slavery in the Iberian world: the legal code *Las Siete Partidas* and the *Summa Silvestrina*.

Compiled during the second half of the thirteenth century, the *Partidas* presented self-alienation as one of the three kinds of servitude: enemies of the faith captured in war; children of female servants; and free individuals who chose to be sold as slaves. The fourth *Partida*, Title 21, First law, defined the five conditions for voluntary slavery to be recognized. First, the individual needed to agree to their own enslavement; second, they should receive part of the price agreed in the negotiation; third, they should be fully aware of their condition as a free person, and that they would be submitting themselves to lose this condition; fourth, the buyer should wholeheartedly believe in the individual's servile condition, thus recognizing the latter's loss of freedom; finally, the person sold had to be at least 20 years old.

Another legal landmark in the definition of the limits of voluntary slavery were the *summas* written between the end of the fifteenth century and the beginning of the sixteenth, especially the work of Silvester Mazzolini, also known as Prierias. Popularly known as *Summa Silvestrina*, his work reiterates the existence of preconditions for accepting voluntary slavery and the definition of freedom as an objective right or *dominium*, as Eisenberg reminds us (Eisenberg, 1998, p. 248). In the third part of the entry, *De servitute et servo*, Prierias confirms the conditions presented by the *Siete Partidas*, adding that the seller of the voluntary slave had to be certain of the person's freedom. Silvester's *summa*, widely known and reedited during the sixteenth century, would provide the bases for interpreting processes of enslavement in new frontiers of Christianity.

Considering the passage from the medieval to the early modern world, voluntary slavery became one of the forms through which bondage relations could be legally established. This legalization of voluntary slavery was only possible as the result of the humanization of the slave, the recognition of the individual concerned as a human being and not as a simple *instrumenti genus vocale*, when the reification of the captive defended by Roman legislation was abandoned in favor of recognizing the individual's human condition.² In the words of Marc Bloch, this was the moment when the medieval lord turns to

his servant and tells him “you are a man,” or “you are a Christian” (Bloch, 1947, p. 40). Recognizing the humanity of slaves established the necessary conditions for their conversion and consequently their introduction into the Christian community, as well as their subjection to the rules and laws regulating Christianity.

Voluntary slavery, as seen by the conditions imposed by the *Siete Partidas* and Prierias, created a serious problem: how could it be proven that an individual subjected to slavery was fully aware of his or her condition as a slave? In casuistic terms, the *bona fides* of the parties to the transaction or contract had to be verified. Furthermore, even though slavery was regulated by natural and civil law, rather than by Canon law, moral issues raised by slavery in general were related to the internal forum, the realm of conscience, which meant they became subject to the scrutiny of moral theology. For this reason, when they encountered barriers that made it difficult for non-Europeans to understand Christian dogma, missionaries and theologians saw with great concern the need to prove that individuals were fully aware of their condition and of the consequences of submitting themselves to voluntary slavery. All these difficulties lie at the base of the discussions analyzed here.

THE ABSOLUTE RIGHT TO SELF-ALIENATION

In 1567, the Jesuit priest Manuel da Nóbrega responded to arguments presented by Quirício Caxa, professor of the Bahia College. Part of the long debate regarding the enslavement of Brazilian indigenous peoples, Caxa’s arguments are presented by Eisenberg as fundamental pieces in the subsequent development of Luis de Molina’s thought concerning the right of an individual over him or herself as a free individual. For Eisenberg, Caxa preceded Molina, breaking with “principles established by the Dominican interpretation of Thomism” and arguing that “a person has the right to sell himself because a free man is the lord of his own freedom” (Eisenberg, 2004, p. 19). Alfredo Storck corrects Eisenberg, claiming that he overestimated Caxa’s originality, because Aquinas and Conrad Summenhart had already introduced similar ideas before the Bahian Jesuit did (Storck, 2012, p. 69).

Looking for the bases of the arguments given by the Jesuit, Storck and Zeron both turn to Serafim Leite’s notes in his *Monumenta Brasiliae* to identify authors used by Caxa (Leite, 1960, pp. 389-393; Storck, 2012, p. 77; Zeron, 2011, p. 113). Storck’s article is particularly interesting as it shows how Caxa incorporated the arguments of Domingo de Soto and Thomas Aquinas to

justify his groundbreaking position, that a man is the master of his own reputation. As a result, Caxa defends the possibility of setting a price for freedom and, consequently, making the human individual subjectable to self-alienation (Storck, 2012, pp. 77-79).

Serafim Leite's notes allow us to identify many of the authors used by Caxa. The Bahian Jesuit begins by mentioning Justinian's *De patribus qui filios distraxerunt* (Storck, 2012, p. 73), which was reviewed and rewritten by the Mesa de Consciência e Ordens (Eisenberg, 2004, pp. 14-15). Caxa then turns to Bartolomeo de Saliceto's commentaries to the *Codex*, whose section dedicated to the fourth book of the code was written between 1383 and 1398. Next, the Jesuit cites a number of popular works: Thomas de Vio's *Summa Caetana*, also known as Cardinal Cajetan, one of the very few summists to be translated to Portuguese in the sixteenth century; Domingo de Soto's *De iustitia et Iure*; Aquinas's *Summa Theologiae*; and Canon law's ordinary gloss.

Caxa also refers to Martín de Azpilcueta Navarro and both his *Comentario Resolutorio de Usuras*, and the *Enchiridion* or *Manual de Confessores*; Nicholas de Lyra's gloss; *De restitutione [et] contractibus tractatus* by Juan de Medina, another author from the School of Salamanca;³ and the commentaries of John Duns Scotus, Richard of Middleton and Pierre de la Palu on Peter Lombard's *Sentences*. The presence of these authors in the text, including some of the most important casuists at the time – Soto, Cajetan, Medina and Navarro – are signs of the revolution that both religious reformation and the meeting of moral challenges in colonial societies provoked in sixteenth-century moral theology.

Summing up Caxa's arguments, he defends the validity of the following situations: a father could sell his own child out of extreme necessity, and a person aged 20 or over could sell him or herself. It soon becomes apparent that the focus of the debate is the second proposition. Caxa argues that a man is the master of his own freedom, an unalienable freedom, and that there is no divine, natural or human law capable of stopping an individual from selling himself as a slave. The first two opinions are reiterated by biblical examples. As for the third, Caxa explains one of the principles of natural law: citing Aquinas, the Jesuit recalls that what nature does not forbid is thereby permitted. As for human law, Caxa argues that any text forbidding slaves from being sold refers to sales made by others, not by oneself. To reinforce his argument, he quotes Navarro's *Comentario Resolutorio de Usuras*, which explains that even though it is impossible to levy individuals, it is acceptable for a person to sell him or herself since it is neither restricted by natural law, nor forbidden by either divine or human [law]" [*no estar vedado por el*

divino, ni humano”] (Navarro, 1556, p. 45). Caxa resorts to Soto and Navarro, as well as glossators Scotus, Middleton and de la Palu, to confirm, while considering their definitions of slavery, that self-alienation was a form of bondage legally recognized as legitimate.

In his reading, Eisenberg asserts that Caxa ignored Silvester Mazzolini’s work and other texts by sixteenth-century Thomistic theologians – that is to say, leaving aside the prerequisites needed to recognize voluntary slavery (Eisenberg, 2004, p. 23). Eisenberg forgets, though, to consider the nature of his source. As is well known, Caxa and Nóbrega’s debate only partially survived with just a copy of the former’s opinion and the latter’s reply.⁴ This is just one moment of the debate, therefore. A careful reading of Quirício Caxa’s opinion clearly indicates that this excerpt is a reply to questions previously sent by Manuel da Nóbrega.⁵ As for the conditions of legitimate voluntary slavery, Caxa stipulates that it would be unnecessary for a person to be 20 years old or over. However, the Jesuit chooses to not follow this argument through, deciding to comply instead with the Mesa da Consciência’s order setting an age limit on voluntary slavery based on civil and ecclesiastical jurisprudence, given that the Jesuit explained human law forbids it “*to be done unless in this way*” (Leite, 1960, p. 394). It is clear that Caxa is referring to a prerequisite defined by law, even if he does not quote the *Summa Silvestrina*, as would be expected, or the *Siete Partidas*.

Apparently, when Caxa wrote his opinion and Nóbrega his replica, they had already moved beyond discussing the prerequisites defined by Silvester and others for voluntary slavery to be recognized as legitimate. From this viewpoint, both were discussing in detail the issue of a 20-year-old minimum age for self-alienation. Thus, the absence of any mention of further conditions necessary for voluntary slavery – awareness of one’s freedom, participation in the transaction and so on – is explained by the focus adopted by both authors at this point of the debate, when they were centering on the need for and the limits to a person’s *dominium* over his or her own freedom.

As Zeron explained, Caxa’s stance is a defense of the individual’s absolute right over his or her own alienation (Zeron, 2011, p. 113). It is uncertain, though, what other arguments Caxa introduced in his defense of indigenous voluntary slavery. Nonetheless, the focus of Quirício Caxa’s defense allows a comparison with different arguments elaborated regarding the voluntary slavery of the Japanese.

EMPIRE AND THE OTHERS

In the East, voluntary slavery encountered moments of veiled consent among some authorities of the Society of Jesus. In 1550, Ignatius Loyola, when asked by missionaries about the legitimacy of subjecting people to slavery in Asia, opted to leave the issue for local superiors to decide. The same response was given around 1570 by Francisco Rodrigues, rector of the Goa College of São Paulo, to an anonymous questionnaire regarding the legitimacy of enslaving Japanese women (Ehalt, 2018, pp. 229-230).

In Japan, the practice that most closely resembled voluntary slavery was *nenki hōkō* 年季奉公 or *temporary servitude*, in which a person subjected him or herself to serve another, voluntarily or not, for a set period of years. The labor was provided in exchange of a monetary payment or benefits offered by the master. Gradually, from the sixteenth century until the end of the following century, this relationship mostly became associated with hiring warriors from inferior classes. This change occurred during the early period of contact between Japan and Europe, while the individualization of relations between masters and servants advanced (Yamaguchi, 1991, p. 576). As defined by Mori, early modern temporary servitude, differently from its medieval variations, emerged during the modernization of rural relations in Japan. While servitude's medieval side was marked by master-servant relations that rendered social mobility impossible, debt servitude, with its modernizing features, allowed the establishment of such relations according to an interpersonal economic modality (Mori, 1951, pp. 29-30).

Thus, *nenki hōkō* and other kinds of labor would be labeled by Europeans as forms of slavery. Japanese historiography has already been highlighting for some time the relation between forms of unfree servitude in Japanese society during this period – *genin*, *nenki hōkōnin*, *shojū e* outros – and slavery outside of the archipelago, including the process of labeling such forms as slavery (Maki, 1971, p. 60; Oka, 2014, p. 77-78).⁶

Since the 1560s at least, missionaries became directly involved in the process of hiring Japanese temporary servants, systematically mediating transactions between Japanese and Portuguese (Ehalt, 2018, pp. 223-227). Recent research has also revealed examples of Japanese individuals subjected to temporary slavery with Japanese characteristics, whose periods of enslavement had been defined by local Jesuits (Seijas, 2008, p. 27; Sousa, 2015, p. 101, 106-108, 212-223).

However, it was only in the early 1590s that missionaries would compile arguments in favor of temporary slavery in Japan. In 1592, a list of 45 moral questions was sent to theologians in Europe exposing some of the problems faced by missionaries in Japan (López Gay, 1960). Besides expounding on various theological challenges, the list also explains what solutions had been adopted by the Jesuits.

Slavery is discussed in the third part of the manuscript, entitled *Circa bella, et captiuos*, spanning items 22 to 31. The list begins by casting doubt on the right to *dominium* of Japanese masters, who attempted to keep lands conquered by force.

[f. 68v] 22. *Supposita uniuersali consuetudine in japonia, iam inde ab antiquis, temporibus recepta, quod qui maiorem habet potentiam eum, qui minorem habet, debellare conatur, et illius terras in suum dominium convertit, propter quod ueri et naturales domini uix in japonia reperiuntur. [...] Dubitatur, utrum isti, qui per eiusmodi bella adquirunt ista dominia, tuti sint in conscientia, saltem postquam illa pacifice possident, cum in re dubia melior sit conditio possidentis, et [f. 69] uerum dominum reperire, uel si sit in illius potestatem dominia deuenire impossibile appareat, uel an dissimulare liceat, quia licet de restitutione dominorum admoneantur, nulla ratione id facient, et ipsi ea bona fide possident.* (López Gay, 1960, pp. 135-136)

[In Japan there has been a universal custom, accepted since ancient times, whereby the more powerful attempt to eliminate the less powerful, taking over their land and placing it under their own dominion. Because of this [custom], it is difficult to find legitimate and natural lords in Japan. The question is whether these lords, who acquired their dominions through such warfare, can own these lands in good conscience, at least when these were owned peacefully as, when in doubt, possession is favored. Moreover, it seems impossible to find the real [legitimate] lord, or to return these dominions to their legitimate owner. [Besides,] is it permissible to dissimulate? Because if we admonish them to give back these lands, they do not do so, and they hold on to these [lands] in good faith.]

The main difficulty encountered by missionaries regarding issues of ownership was the definition of legitimate landlords in Japan. Jesuits suggested following the principle “*in re dubia melior sit conditio possidentis*,” that is to say, when in doubt, it was better to favor the possessor when it came to establishing the right to ownership in the archipelago. This maxim taken from the Digest was inherited by Canon law in the *regula iuris* 65 VI: “*In pari delicto vel*

causa potior est conditione possidentis."⁷ The interpretation suggested by the questionnaire allowed the adjudicator to ignore issues of moral doubt and choose in favor of the possessor of the object whose ownership was in question. As Decock shows, this reading enabled theologians of the period to allow men to act according to their will, unless a superior law sufficiently proved the limits to certain specific actions (Decock, 2013, pp. 167-168).

Such action was justified, according to the Jesuits, by the good faith – *bona fides* – of the Japanese who declared themselves legitimate landlords. The term should not be seen as simply ornamental. This is a specific reference to Canon law, more specifically to Gratian's *Decretum*, which codified Augustin's original idea and determined good faith to be the state of ignorance regarding the possession of something. A good faith proprietor was someone who firmly and sincerely believed that his or her right to something was greater than another's, despite arguments to the contrary (Salinas Aranedo, 2004, pp. 471-489). The principle was widely applied in the resolution of numerous issues in Japan – for example, the legitimacy of marriages in which men lived in *bona fides* with their wives (Collani, 2001, p. 18). To use this concept to justify a right to property was not something new. As Schüssler explained, the need to prove *bona fides* in order for an owner to claim his or her right to property had already been advocated by glossator Johannes Andreae (Schüssler, 2006, pp. 152-153).

In the Japanese case, the guarantee that Japanese people had the right to *dominium* derived from their customs. Thus, missionaries would dissemble with these converts when issues related to the topic of *dominium* came up, a solution made possible precisely because of the Japanese good faith in their own practices. In this sense, the almost ethnographical description of Japanese society acquires a distinct character. It becomes related more to the legitimization of social practices and the resolution of theological challenges rather than to curiosity and the adaptability of the Jesuit *modus operandi*.

The issue of Japanese temporary servitude comes up on question number 30 of the questionnaire:

30. *Utrum, licitum sit christiano hominem emere, quem cognoscit, non esse captivum, si tamen illum non emat, absque dubio a gentilibus emetur, et in perpetuam servitutem redactus spe saluationis carebit, et an propter eiusmodi beneficium, et pecuniam, quam pro illo dedit, liceat christiano iuxta quantitatem pecuniae ad certum annorum numerum a Patribus taxatum, illius hominis ministerio uti, uel illorum annorum servitium alteri uendere.* (López Gay, 1960, p. 137)

[30. Is it permissible for a Christian to buy a man who he knows [for a fact] is not [a legitimate] captive? If he does not purchase [the man], there is no doubt a gentile will buy him, and he will be reduced to perpetual servitude with no hope of salvation. Is it acceptable for the Christian, in exchange for the benefice he will do for the man, and for the money spent on him, to enjoy the labor and services of this man for a certain number of years, determined by the priests, according to the amount of money paid? Furthermore, is it acceptable to sell their services to others for this number of years?]

The acquisition of an individual whose enslavement is clearly illegitimate is conditioned by the need to save his secular and spiritual life. The solution, implemented by Jesuits since the 1560s, was to use the individual's labor in exchange for money and benefits offered to him or her. The only limitation was the period stipulated by the Jesuits. They explained to European theologians the practice of temporary servitude as a limited period of nominal enslavement, whose period was calculated according to the amount spent and the benefits offered by the master. It was unclear, though, whether such transactions and the participation of Jesuits in this practice were legitimate.

Consequently, the text should not be seen as a defense of the enslavement of Japanese people in general, contrary to the understanding of Sousa, who suggests that the objective here was to legitimize the slave trade (Sousa, 2014, p. 265). After all, missionaries were calling attention to their impotency when faced with the reality of Japanese society. Unable to change misdeeds they noticed all around them, Jesuits wanted to obtain alternatives compatible with moral theology in order to respond to such challenges while it was impossible for them to change society itself.

The missionaries' incapacity to respond to these difficulties comes up numerous times. On topic number 23, referring to the justice of wars waged by the Japanese, missionaries wrote "*talis admonitio potius scandalum, quam utilitatem generabit*" – "admonitions would result in more scandal [among converts] than useful results." The next topic, which questioned the missionary attitude vis-à-vis Christian princes who declared unjust wars, explains that "*etiam admoniti nulla ratione desistent*" – whatever reasons were presented, they [Christian princes] would not give up their intentions even though they had been warned. Similar reasoning is seen on questions 25 and 26, indicating that they rarely gave up their aims and that admonitions were ineffective (López Gay, 1960, pp. 136-137). This insistence on the missionaries' incapacity in the face of reality led them to admit that, despite their political and

missionary ambitions, “*interim quod non est potestas ad eiusmodi consuetudines reformatas*” – “now, we do not have the authority to reform these customs” (López Gay, 1960, p. 137).

The objective was to force the questionnaire’s readers to ponder these issues and offer practical alternatives that took into consideration the missionaries’ fragile position in the archipelago. As a result, the apparent defense of temporary slavery assumes a different aspect: for Jesuits, although it was far from the ideal, their participation in intermediating these transactions was a temporary solution.

The 45-question list shows arguments in favor of the conditional defense of forms of servitude based on good faith and favoring the right of the owner over the freedom of the slave in Japan. The analysis of the right of the Japanese to subject themselves to voluntary slavery would be debated later by Jesuits in Goa.

A microfilm kept at the University of Saint Thomas in Manila, Philippines, shows a collection of discussions held at the capital city of the Portuguese empire in Asia: “*Cassos resueltos en Goa por los Padres de la Compañía cerca del ministerio de Japon*” [Cases Solved in Goa by the Fathers of the Society of Jesus regarding the Ministry in Japan]. Possibly a copy of the original Portuguese text, the absence of a date makes it harder to contextualize the production of these resolutions. Nevertheless, it is possible to estimate a probable date for the *Cassos resueltos*. Right at the beginning of the text, where Jesuits warn about the temporary nature of the resolutions presented, it reads:

Aun que la Uerdadera Resoluçion de mucho cassos de Iapon sea de esperar de Roma despues q[ue] fueron embiados a su Sanctidad toda via por dar algun Remedio a los trabaxos escrupulos que los P[adr]es q[ue] uiuen en Japon, tienen: Pondremos aqui lo que por aora nos pareçe en daño.

[Although the real resolution of many cases from Japan can be expected from Rome after being sent to His Holiness, in order to offer some remedy to the scrupulous work of Fathers living in Japan, we shall set down here what for now appears to us to be harmful.]

It becomes clear that at the moment of elaborating these resolutions, Jesuits knew that final and definitive decisions were coming from Rome. This is certainly a reference to the 45-question list sent by missionaries in Japan to Europe. *Procurador* Gil de la Mata, responsible for taking the list to Spain and Rome, arrived in Goa in late 1592 or early 1593, where he stayed until “*se*

aparejar major con el favor del Virrey” – “he had been better prepared with the Viceroy’s favor.”⁸ Finally, he left India in 1594, arriving in Lisbon on August 6th. If the 45 questions were discussed during Gil de la Mata’s stay in Goa before his departure for Europe, it can be concluded that these resolutions were elaborated in 1593.

However, when Gil de la Mata came back to India in 1596, he arrived empty-handed. On leaving Lisbon on March 10th, he was carrying none of the answers to the doubts from Japan – during the crossing from Italy to Spain, he had lost all the correspondence received from his superiors in Rome (López Gay, 1964, pp. 114-117). Visitor Alessandro Valignano, who received de la Mata in Goa, wrote in 1596 to his superior Claudio Acquaviva:

Como nuestro señor fue seruido q[ue] el p[adr]e Gil da Mata llegase aqui sin ningunas cartas, ni papeles de V[uestra] P[aternalidad] ni otros papeles ni respuesta de la cõsulta, o cõgregacion q[ue] de Japon le embiamos, porq[ue] se perdieron todos como ia se ha escrito, no tenemos otra lus de la uoluntad de V[uestra] P[aternalidad] se no la q[ue] el p[adr]e Gil de mata nos da de palabra, que en cosas tan diuersas y tan arduas de las quales se ha de dar relacion, y satisfaciõn a muchos, no es escrito tan firme q[ue] pueda hombre del todo descãsar en el no puede agora responder a las cosas sino cõforme a lo q[ue] tengo entendido del p[adr]e Gil de [la] Mata...⁹

[As our Lord allowed Father Gil de la Mata to arrive here without any letters or papers from Your Holiness, nor any other papers or any answer to the Consultation or Congregation that we sent from Japan, because everything was lost – as has already been written before – we have no other sign of Your Holiness’s will save for what Father Gil de la Mata has told us orally, which on such diverse and arduous affairs of which many will demand reports and satisfaction, [but] it is not as secure as it would be as if it were written, which would give peace to any man, and now it is not possible to answer [these] issues but with what I have understood from Father Gil de la Mata.]

Valignano also explains that the much-awaited financial and material aid had yet to arrive. Because of critical voices against Valignano from his political enemies, among them Father Francisco Cabral, former superior of the Japanese mission, the Visitor decided to leave Gil de la Mata in Goa awaiting answers from Europe. As explained in the previous document, the solutions given by European theologians arrived in Japan only in 1598, via the Philippines, days after Valignano and Gil de la Mata arrived in Nagasaki (*Japonica-Sinica* 13-II f. 213). We cannot ignore the desolate situation in which the *Procurador* and

the Visitor found themselves when de la Mata arrived back in India from Europe in 1596. Consequently, if we consider that the presence of either Valignano or de la Mata was necessary for the debate, it was during that year or in 1597 at the latest that the fathers of Goa gathered to discuss the issues of Japan, during a period of despair among the Jesuit leadership.

The text discusses issues such as matrimony, usury, slavery, idolatry and others, similarly to the questions sent by Japan missionaries to European theologians in 1592. The issue of matrimony reappears at the end of the manuscript, with a review of the previous resolution. This suggests that the discussion went beyond the 45 questions to include practical knowledge from experienced missionaries from Japan, such as Valignano, Cabral and de la Mata, which in turn supports the idea that the text was elaborated in 1596 or 1597.

The manuscript divides Japanese slavery into ten types: slaves sold by their parents; individuals who sold themselves into slavery; slaves from birth; people subjected to slavery in exchange for tithes and mercy; slavery as punishment for offences committed by themselves, their parents or their husband; individuals who ran away from their parents or masters and took refuge with landlords or *tonos*, then became enslaved; people who allowed themselves to be enslaved due to hunger; individuals enslaved as a consequence of unpaid loans; slaves ordered by *tonos* to serve in their houses; and prisoners of war.

The categories presented here can be compared to the cases described by the 1592 questionnaire. Cases 26 and 27 discuss the issue of prisoners of war, suggesting good faith could be enough to assure the legitimacy of such slaves. Case 28 questions the legality of enslaving children because of sins – *peccata* – committed by their parents. Case 30 asks whether it would be legitimate to use Japanese temporary slaves, as discussed above. Finally, case 31 draws attention to the Japanese custom – *consuetudine* – of perpetually subjugating women and children who ran from their parents or husband's homes to the house of the local lord or *tono*. Case 31 also asks whether local lords had the authority to legitimately enslave their servants' daughters – *filiis famulorum* – to serve their own wives (López Gay, 1960, pp. 136-137).

It is clear that the Goa Jesuits' list included other types of Japanese slavery absent from the questionnaire sent by missionaries in Japan – individuals sold by their own parents, those born into slavery, people enslaved because of debt and so on. Effectively, the resolutions from Goa deal with six more types of slaves than the questionnaire sent from Japan. Comparing both lists, the analysis offered by the Jesuits in Goa is much more specific, which reinforces the

notion that the debate counted on the experience of Valignano and others coming from the Far East.

Below is the section referring to the second category discussed by the Jesuits in India – voluntary slavery:

2º Título si es esclauo el q[ue] se vende a si mismo

No ay que dudar sino que es Verdadero esclauo el que con las devidas condiciones se Vende assi mismo. Y por esto digo 1ªmente que en las tierras donde se guardan las leyes imperiales el que se Uende, queda esclauo con condicion que en la Venta se guarden estas condiciones que son los principales. 1ª que el que se Vende sea m[ay]or de 20 años. 2ª que sepa que es libre, y quiera hazerse esclauo. 3ª que goze del precio. Las demas se reduçen a estas, Y assi el que con estas se Vende es esclauo, como dicen muchas leyes, Y lo tiene Silvestro y Soto de iust[iti]a Libro 4 q. 2 art. 2. Pero hablando de Iapon donde no se guardan las leyes imperiales, si vno se Vende assi mismo esclauo quedara, aunque no se guarden con el dho Rigor todas las condiciones que los DD. ponen porq[ue] estando in solo iure n[atur]ali como vno puede disponer de sus cossas, puede disponer de su libertad, et volenti non fit iniuria. Y assi decimos que el que se Uende a si mismo, quedara esclauo, si se guardan estas condiciones. 1ª que se Uende libremente, sin fuerça ni amenazas. 2ª que sea para aprouecharse del precio 3ª que tenga edad competente para poderse hazer esclauo, y puesto q Ant[oni]o Gom[e]z tomo 2 Variar[um]q[ue] cap. 14 Diga que p[ar]a que Un hombre pueda arbitrar de sus cossas basta que sea puber vel p[ro]ximus pubertati, que es de 13 o de 14 años. Toda via essa edad no parece sufficiente para poderse Un hombre hazer esclauo, Y por esso con mucha Razon conforme a las leyes imperiales a de passar de 20 años.¹⁰

[Second Title: whether someone who sells himself is a slave

There is no doubt that someone who has sold himself under the requisite conditions is a real [legitimate] slave. And by these, I mean, firstly, that in those lands where imperial laws are observed the person who sells himself will become a slave so long as the sale follows the following main conditions: first, the person who sells himself is 20 years old or over; second, he knows that he is free and wishes to become a slave; and third, he receives part of the price. These are the main conditions, and thus the person who sells himself according [to these rules] is a slave, and such is argued by Silvester and Soto's *de Iustitia et Iure*, book 4, q. 2, art. 2. But speaking of Japan, where imperial rules do not apply, if someone sells himself he will become a slave, even when all the conditions required by the Doctors [of the Church] are not rigorously observed, because [Japan] is in *solo iure naturali*, so a person has the right to enjoy his freedom in the same way he enjoys

his things, *et volenti non fit iniuria*. Thus, we can state that the person who sells himself will become a slave, if the following conditions are met. First, he freely sells himself, without any coercion or menace. Second, he receives part of the price paid. Third, he is old enough to become a slave, recalling that Antonio Gomez – 2nd Tome, *Variarumque*, Chapter 14 – states that for a man to judge on his own things it suffices for him to be *puber vel proximus pubertati*, which is 13 or 14 years old. However, given that this age does not seem old enough for a man to become a slave, for good reason, following imperial laws, he must be more than 20 years old.]

It seems that the Jesuits in Goa preferred to focus on the problem of jurisdiction: which law should apply to the case of Japanese slavery? They summarize the necessary conditions for legitimate self-alienation – a minimum age of 20 years, awareness of his or her own condition, and participation in the transaction, clearly evoking the *Summa Silvestrina*. They also mention Domingo de Soto, specifically the section of his work *De iustitia et iure* that deals with the possibility of men becoming lords or masters of other men – “*Utrum homo homini dominus esse possit.*” The recourse to these authors shows not only that Jesuits examined the case against the conditional legitimacy as defined by Prierias, but also based their decisions on the right to alienation of one’s own freedom as explained by Soto.

Nevertheless, these principles would not be applied to the Japanese case for two reasons. First, since Japan was outside imperial jurisdiction, the case had to be interpreted according to natural law. Goa’s Jesuits began to cite Francisco de Vitória’s commentary to Aquinas’s *Secunda Secundae*, as indicated by their use of the expression “*in solo jure naturali.*” They wished to show that, in the natural state or under the prevalence of natural law, the power of *dominium* was held by all individuals, given that all people could claim for themselves the *dominus* over all things, and, so long as no harm was done to oneself or others, anyone could make anything their own (Decock, 2013, p. 356). Hence, the capacity for self-alienation and its legitimacy was guaranteed to Japanese people by this principle.

Secondly, the mention of the legal formula *volenti non fit iniuria* – originally expressed in the Digest, Book 47, Title 10, Section 1, Paragraph 5 – recalled the impossibility of condemning acts committed against someone who had previously consented to such acts. The Jesuits’ proposal thus aimed to redefine voluntary slavery on the basis of natural law, thereby legitimizing the self-alienation of the Japanese.

The next step was to list the conditions for voluntary slavery in the state of nature. Firstly, it was determined that the person had to do so freely and spontaneously, thus condemning those who were enslaved by force. Next, reviving one of Prierias's preconditions, they determined that the slave had to receive some percentage of the sale's price. Finally, the Jesuits reaffirmed that the individual had to be of a minimum age. However, this age is not arbitrarily defined, as may seem to be the case in the conditions set by Prierias and others. The Jesuits began by showing that when the individual became a slave, it was essential he or she had the capacity to reason. Here, they quoted Antonio Gómez, juriconsult of the School of Salamanca, and his *Commentariorum variarumque resolutionum iuris civilis*. In Chapter 14 of this work, dedicated to the rights of restitution for underaged individuals, he argues that the minimum age for someone to possess decision-making power over his own rights is puberty or an age close to puberty, understood to be around 13 or 14 years old. However, believing this age to be insufficient for a decision of such importance, Goa's Jesuits preferred to follow the precepts established by imperial laws, advocating that voluntary slaves needed to be at least 20 years old. It amounts to a simplified revision of Prierias's conditions, mentioning all his main points such as the enslaved individual's awareness of his or her freedom, how the individual took part in the negotiation, and the conditioning of the transaction by setting a minimum age.

EXTRACONTEXTUAL INTERSECTIONS

The justifications for indigenous voluntary slavery in Brazil and the Japanese voluntary slavery centered on issues of moral ambiguity whose solutions depended on the interpretation given by missionaries concerning the nature of these practices and their use by Europeans. Without ready arguments or methods to deal with such challenges, confessors in Portuguese America and in the Far East found themselves unprepared to answer the following questions: was it legitimate to keep enslaved people who had voluntarily subjected themselves to slavery? And was it legitimate for these individuals to allow themselves to become enslaved?

Both questions have oriented the analyses presented here. Yet, the fundamental question that feeds the discussion itself is the understanding of social and legal practices in non-European societies through the lenses of moral theology and casuistry. As shown here, the initial response to these problems was to read each situation on the basis of the legitimizing prerequisites for

voluntary slavery as determined by casuistry, especially Silvester Mazzolini's work. This is the starting point for both cases, clearly expressed by Goa's Jesuits, and most probably discussed previously by Quirício Caxa. The problem was how to understand these prerequisites in situations where their application was made more difficult by systematic and practical differences in the process of enslavement in non-European societies. The ideas of Prierias depended on full awareness on the part of the subjugated individual, and this was not always something that could be clearly defined when dealing with non-Europeans. The difficulties faced by missionaries could be understood, therefore, to derive from differences between medieval notions of servitude in the Old World and local concepts and practices of unfree labor, commonly referred to as slavery systems on both the European and non-European side.

Nevertheless, the discussions in Brazil in 1567 and those in Japan towards the end of the sixteenth century were both products of distinct moments in the history of moral theology, differentiated especially by the way in which ambiguous issues were addressed. Taking the case of Quirício Caxa as an example, the justification for voluntary slavery among Brazil's indigenous peoples took place soon after Portugal adopted the Tridentine decrees, but still under the hegemony of the doctrine of tutiorism, which determined that when dealing with ambiguous issues, such as voluntary slavery, the letter of the law should be followed, observing legal principles and favoring the more secure positions (*opinion tutior*) found in authoritative texts of moral theology (Maryks, 2008, p. 2; Schüssler, 2006, p. 93). Caxa's arguments are thus presented in an attempt to prove, as Zeron reiterates, the right of the individual to his or her self-alienation (Zeron, 2011, p. 113). Seen in these terms, Cunha's proposal, namely that Caxa was acting in accordance with Luis de Molina's thought, becomes almost anachronistic given the deep difference between the thought published by Molina at the end of the sixteenth century and the late tutioristic context of 1567 (Cunha, 2017, pp. 174-175). While Molina elaborated his thought in a permissive way, denounced as excessive by opponents in the seventeenth century (Schüssler, 2014, p. 286), Caxa does not elaborate a viable alternative to the case, but tries instead to demonstrate how these individuals were acting under entirely legal conditions and according to the soundest precepts of canon law and casuistry.

When, for their part, the Goa Jesuits met at the end of the sixteenth century to discuss the issue of Japanese slavery, the approach to morally dubious questions was determined by probabilism. A doctrine defined by Dominican Bartolomé de Medina in 1577, this argued that morally dubious issues could

be resolved on the basis of less secure but nevertheless probable opinions (*opinio probabilis*) (Tutino, 2018, pp. 39-48). The educational experience in colonial societies also led Jesuits to quickly incorporate this posture, allowing, for example, the resolution of voluntary slavery by favoring the side of the owner (Maryks, 2008, p. 3; Schüssler, 2006, pp. 98-100). Considering that the Brazilian case of voluntary slavery was debated by the rector of the College of Bahia, and the Japanese case probably debated during the Cases of Conscience sessions promoted by the College of São Paulo in Goa, it is perhaps unsurprising that both defenses came precisely from missionaries directly involved with the issue of education.

As Schüssler explains, the doctrine of probabilism allowed clergymen to choose a probable option, even if it were not the most probable. It was a proposition sufficiently based on reason and considered truthful by a rational person (Schüssler, 2006, p. 93). On encountering cases of slavery in colonial societies, therefore, the mere possibility that an individual's enslavement might be legitimate was enough for missionaries to accept this option.

Given this context, it becomes clear that Jesuits in Goa responded to the issue of voluntary slavery in a very different manner to Caxa. They did not worry about proving the right to self-alienation, but rather showed a different way to legitimize and accept the practice. The probability of legitimacy, guaranteed by Japanese customs, was enough. Ultimately, a method was proposed – in other words, the Jesuits compiled a list of new conditions for the process of enslavement to be deemed legitimate. Comparing both defenses, it becomes clear that adopting probabilism had a considerable influence on resolving cases of dubious slavery. The solution proposed in Goa would be unthinkable without acceptance of the potential legitimacy of Japanese practices.

Despite their differences, it is notable that, after both setting out (very probably) from Prierias, the next step was to reduce the issue to natural law and consider the right of the individual to self-alienation. What effectively happened was the establishment of limits to the prerequisites defended by the *Summa Silvestrina* and their application in a non-European context, although only Goa's Jesuits actually produced a new list of criteria for determining legitimacy. Nevertheless, in Brazil and Japan alike, missionaries preferred to maintain certain principles, such as the minimum age of 20 years old. This demonstrates that casuistry was, in these cases, reviewed and not discarded.

As Schüssler writes, the application of probabilism and legal formulas allowing owners to be favored in disputes involving slavery was responsible for marking the early modern era as a time of freedom of action of Europeans

in the world (Schüssler, 2006, pp. 98-100).¹¹ This is the main difference between the two moments. While Caxa floundered against the constraints of tutorism, looking for safer opinions that could substantiate his proposals, Goa's Jesuits discussed the case of Japanese voluntary slavery in a more flexible manner, without the need to demonstrate the strength and robustness of their arguments, given that Medina's probabilism assured the legitimacy of their theses even though these were less probable than others. In the long run, this was just one moment in the long process identified by Cunha of "accommodation of a language defined liberal and of slavery," and the bureaucratization of the master-slave relation that would reach its culmination in the nineteenth century (Cunha, 2017, p. 181).

The history of the emergence of early modern slavery cannot afford to leave aside moments such as when Quirício Caxa debated with Manuel da Nóbrega in 1567, or when Jesuits in Japan asked their superiors in India and Europe for legal backing for their methods. Moments like these, including the famous dispute between Las Casas and Victoria, established the legal and political limits of Europeans' freedom of action and served to legitimize the enslavement of others. Contextualizing these debates is necessary not only to better understand the circumstances in which they developed, but also to shed light on the reach and power of these ideas and the contributions that theologians dispersed in colonial societies made to the development of early modern moral theology.

MANUSCRIPT SOURCES

Manila, Philippines. Universidad de Santo Tomás, Archivo de la Provincia de Santo Rosario, *Consultas*, tome 2.
 Tokyo, Japan. Sophia University, Kirishitan Bunko, *Japonica-Sinica*, 12-I, 13-I.

PRINTED SOURCES

ALFONSO X. *Las Siete Partidas, glosadas por el Licenciado Gregorio Lopez*. Salamanca: Andrea de Portonariis, 1555.
 MAZZOLINI, Silvester (Prierias). *Sylvestrina Summae, quae Summa Summarum merito nuncupatur*. Lyon: 1551.
 NAVARRO, Martín de Azpilcueta. *Comentario Resolutorio de Usuras, sobre el cap. j. de la question. iij. de la. xiiij. causa*. 1. ed. Salamanca: Andrea de Portonariis, 1556.

REFERENCES

- BLOCH, Marc. Comment et pourquoi finit l'esclavage antique. *Annales. Économies, Sociétés, Civilisations*. Paris: EHESS, 2ème année, no. 1, pp. 30-44, 1947.
- COLLANI, Claudia von. Mission and Matrimony. In: KU Wei-ying (ed.) *Missionary Approaches and Linguistics in Mainland China and Taiwan*. 1st. ed. Leuven: Leuven University Press, Ferdinand Verbiest Foundation, 2001. pp. 11-31.
- COSTA PINHEIRO, Cláudio. Blurred Boundaries: Slavery, Unfree Labour and the Subsumption of Multiple Social and Labour Identities in India. In: VAN DER LINDEN, Marcel; MOHAPATRA, Prabhu P. (eds.). *Labour Matters: towards global histories*. 1st. ed. New Delhi: Tulika Books, 2009. pp. 172-194.
- CUNHA, Manuela Carneiro da. Sobre a servidão voluntária, outro discurso: escravidão e contrato no Brasil Colonial. In: CUNHA, Manuela Carneiro da. *Cultura com aspas e outros ensaios*. São Paulo: Ubu, 2017. pp. 169-181.
- DECOCK, Wim. *Theologians and Contract Law: The Moral Transformation of the Ius Commune (ca. 1500-1650)*. Leiden: Martinus Nijhoff, 2013.
- EHALT, Rômulo da Silva. Jesuits and the Problem of Slavery in Early Modern Japan. 2018. Thesis (Ph.D. in Global Studies) – Tokyo University of Foreign Studies. Tokyo, 2018.
- EISENBERG, José. A escravidão voluntária dos índios do Brasil e o pensamento político moderno. *Análise Social*, Lisbon: Instituto de Ciências Sociais da Universidade de Lisboa, vol. XXXIX, no. 170, pp. 7-35, 2004.
- EISENBERG, José. *Theology, Political Theory, and Justification in the Jesuit Missions to Brazil, 1549-1610*. 1998. Dissertation (Ph.D. in Philosophy) – The City University of New York. New York, 1998.
- FEITLER, Bruno. *Reportorio – uma base de dados dos processos da Inquisição de Goa (1561-1623)*. 2011. Available in: www.i-m.mx/reportorio/reportorio/base.html. Accessed: 10 April 2018.
- LEITE, Serafim (ed.). *Cartas do Brasil e Mais Escritos do P. Manuel da Nóbrega (Opera Omnia)*. 1. ed. Coimbra: Universidade de Coimbra, 1955.
- LEITE, Serafim (ed.). *Monumenta Brasiliae, IV (1563-1568)*. 1. ed. Roma: Monumenta Historica Societatis Iesu, 1960.
- LÓPEZ GAY, Jesús. Un Documento Inédito del P. G. Vázquez (1549-1604) sobre los Problemas Morales del Japón. *Monumenta Nipponica*, Tokyo: Sophia University, vol. 16, no. 1/2, pp. 118-160, 1960.
- LÓPEZ GAY, Jesús. *El Matrimonio de los Japoneses: Problemas y soluciones según un ms. inédito de Gil de la Mata, S. J. (1547-1599)*. Rome: Libreria dell'Università Gregoriana, 1964.
- MAKI Hidemasa. *Jinshin Baibai*. 1. ed. Tokyo: Iwanami Shinsho, 1971.

- MARYKS, Robert A. *Saint Cicero and the Jesuits: The Influence of the Liberal Arts on the Adoption of Moral Probabilism*. 1st. ed. Hampshire, U.K. Ashgate; Rome: Institutum Historicum Societatis Iesu, 2008.
- MORI Kahei. Kinsei Nôson Hôkônin no Hôristu teki Seikaku. *Iwate Daigaku Gakugei Gakubu Kenkyû Nenpô*, Sendai: Iwate Daigaku, vol. 3, no. 1, pp. 29-40, 1952.
- OKA Mihoko. Daikôkai Jidai – Umi wo Watatta Nihonjin. In: TOKYO Daigaku Shiryô Hensanjo (ed.) *Nihonshi no Mori wo Yuku*. 1. ed. Tokyo: Chûkô Shinsho, 2014. pp. 75-79.
- SALINAS ARANEDA, Carlos. Un influjo frustrado del Derecho Canónico en el Código Civil de Chile: mala fides superveniens nocet. *Rev. Estudios Histórico-Jurídicos*, no. 26, pp. 471-489, 2004. Available in: www.scielo.cl/scielo.php?script=sci_arttext&pid=S0716-54552004002600015&lng=es&nrm=iso. Accessed: 10 April 2018.
- SCHÜSSLER, Rudolf. The Economic Thought of Luis de Molina. In: KAUFMANN, Matthias; AICHELE, Alexander (eds.). *A Companion to Luis de Molina*. 1st. ed. Leiden & Boston: Brill, 2014. pp. 257-290.
- SCHÜSSLER, Rudolf. Moral Self-Ownership and Ius Possessionis in Late Scholastics. In: MÄKINEN, Virpi; KORKMAN, Petter (eds.). *Transformations in Medieval and Early-Modern Rights Discourse*. Dordrecht: Springer, 2006. pp. 152-153.
- SEIJAS, Tatiana. The Portuguese Slave Trade to Spanish Manila: 1580-1640. *Itinerario*, New York: Cambridge University Press, vol. 32, no. 1, pp. 19-38, 2008.
- SOUSA, Lúcio de. *Escravidura e diáspora japonesa nos séculos XVI e XVII*. 1. ed. Braga: NICPRI, 2014.
- SOUSA, Lúcio de. *The Jewish Diaspora and the Perez Family Case in China, Japan, the Philippines, and the Americas (16th Century)*. 1. ed. Macao: Fundação Macau e Centro Científico e Cultural de Macau, 2015.
- STEWART, Roberta. *Plautus and Roman Slavery*. 1st. ed. Chichester, U.K.: Wiley-Blackwell, 2012.
- STORCK, Alfredo. The Jesuits and the Indigenous Slavery: A Debate over Voluntary Slavery in Brazilian Colonial Period. *Mediaevalista: Textos e Estudos*, Porto: Gabinete de Filosofia Medieval da Universidade do Porto, vol. 31, pp. 67-80, 2012.
- TUTINO, Stefania. *Uncertainty in Post-Reformation Catholicism: A History of Probabilism*. 1st. ed. Oxford: Oxford University Press, 2018.
- YAMAGUCHI Tôru. Hôkônin. In: KOKUSHI Daijiten Henshû Iinkai (org.). *Kokushi Daijiten: Dai 12 Kan*. 1. ed. Tokyo: Yoshikawa Kôbunkan, 1991. pp. 576-577.
- ZERON, Carlos Alberto de M. R. *Linha de fé: a Companhia de Jesus e a escravidão no processo de formação da sociedade colonial (Brasil, séculos XVI e XVII)*. Trad. Antonio de Padua Danesi. 1. ed. São Paulo: Edusp, 2011.

NOTES

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² A vast bibliography exists on the reification process of the slave in Ancient Rome. I mention only the excellent *Plautus and Roman Slavery* by Roberta Stewart, especially the second chapter (STEWART, 2012, pp. 48-79).

³ Serafim Leite, in his edition of the complete works of Manuel da Nóbrega, erroneously identifies Caxa's indication here as a reference to Middleton. Furthermore, in both versions published by Serafim Leite, he transcribes "fol. 35" when, on checking the original by Medina, it is possible to see Caxa was actually indicating folio 55 of the *De restitutione* [et] *contractibus tractatus* (LEITE, 1955, p. 44).

⁴ Moreover, as Cunha mentions, the issue had already been submitted to Molina, Navarro, Fernão Peres and Gaspar Gonçalves (CUNHA, 2017, p. 175).

⁵ This is what we can discern from reading the items listed from page 396 onwards of the *Monumenta Brasiliae* (LEITE, 1960).

⁶ It is worth recalling here the important discussion of this phenomenon presented by Costa Pinheiro (COSTA PINHEIRO, 2009, pp. 186-188).

⁷ See *Digest* 6, 2, 9, 4; 12, 5, 8; 20,1,10; 20, 4, 14; 50, 17, 128. *Corpus iuris canonici*, reg. iur. 65 VI.

⁸ *Japonica-Sinica*, 12-I, f. 98.

⁹ *Japonica-Sinica*, 13-I, f. 31.

¹⁰ Archivo de la Provincia de Santo Rosario (APSR), Consultas, tomo 2, f. 323v. Microfilm n. 107 at the Universidad de Santo Tomás Archives, Manila, Phillipines.

¹¹ It is necessary, though, to be careful to avoid what Tutino classifies as the "stereotype of the Jesuit probabilist theologian ready to twist the rigor of traditional morality simply for the sake of excusing any kind of lax behavior," given that the construction of the doctrine of probabilism was deeply marked by polemics and the absence of any consensus among its proponents (TUTINO, 2018, X).

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