

## Na Bahia Setecentista, um pioneiro do abolicionismo?

### A pioneer of abolitionism in 18th century Bahia?

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**Resumo:** No ano de 1992, foi republicado por Paulo Suess *Etíope Resgatado*, de autoria do Pe. Manuel Ribeiro Rocha. Tratava-se de obra raríssima, pois, quanto consta, só havia em todo o Brasil um único exemplar, na Biblioteca Nacional do Rio de Janeiro. Já vinha eu fazendo pesquisas em torno do Pe. Ribeiro Rocha, a quem costumava qualificar de “pioneiro do abolicionismo” no Brasil. Com a reedição de *Etíope Resgatado*, tomei conhecimento da leitura de Paulo Suess, numa direção quase totalmente contrária. Para este, Ribeiro Rocha não passaria de um simples “reformista”, que nada acrescentara de ideia libertária ao problema da escravidão negra. Aliás, essa tinha sido a tese de Ronaldo Vainfas e José Honório Rodrigues, que veem na obra de Ribeiro Rocha mais um exemplar do “pensamento escravista”, que apenas condenava, como o faziam todos os homens de Igreja, os excessos e barbaridades da escravidão negra. Todo este nosso trabalho se orienta, portanto, na direção de uma leitura “abolicionista” do *Etíope Resgatado*, embora admita as evidências claras de “concessões” feitas por Ribeiro Rocha à situação escravocrata de seu tempo.

**Palavras-chave:** Etíope resgatado; Ribeiro Rocha; escravidão; igreja.

**Abstract:** In 1992, Paulo Suess re-published Father Manuel Ribeiro Rocha’s “*Etíope resgatado*”, which was considered an extremely rare work, with only a single copy available in Brazil at the National Library of Rio de Janeiro. I had, at this point, already begun my research on Father Ribeiro Rocha, who was described as "a pioneer of abolitionism" in Brazil. With the re-issue of “*Etíope resgatado*”, I came to know of Paulo Suess’ reading from an almost completely opposite direction. According to Suess, Ribeiro Rocha was merely a simple "reformer" who had contributed nothing from libertarianism to the problem of black slavery. Incidentally, this was the thesis Vainfas Ronaldo and José Honório Rodrigues had argued, in which they regarded the work of Ribeiro Rocha as another example of "slave thinking" that merely condemned, as did all men of the Church, the excesses and atrocities of black slavery. This entire work is oriented, therefore, toward an "abolitionist" reading of “*Etíope resgatado*”, although it acknowledges the clear evidence of "concessions" made by Ribeiro Rocha in his time to the situation of the slaves.

**Keywords:** Etíope resgatado; Ribeiro Rocha; slavery; church.

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### **Prologue: the limitations of a pioneer**

Father Manuel Ribeiro Rocha, in publishing *Etíope Resgatado*, can be considered a “pioneer” of abolitionism. We disagree with Vainfas Ronaldo’s statement, which categorically argues that: “The work of Rocha is one of the leading examples of slave thinking in the Colony, although many see it as a prototype for abolitionist ideas” (VAINFAS, 1986, p.90). Equally, we see the work of Father Ribeiro Rocha in a different light from José Honório Rodrigues, who writes: “It is not a book for black freedom, but a book for reforming the customs of slavery” (RODRIGUES, 1979, 416). Nor do we agree with the position of Paul Suess, who develops an argument against the entire abolitionist character of *Etíope Resgatado* in the introduction to the reissue of the work he coordinated, which we shall see later. It seems to us to be closer in truth to Boxer’s argument that Ribeiro Rocha’s project is “the replacement of black slavery in Brazil with a system of work under contract” (Boxer, 1967, p.145).

When we qualify Ribeiro Rocha as a “pioneer” of Abolitionism, we want to emphasize his specific limitations, which all “pioneers” have. On the one hand, he bears the mark of his priority in relation to his peers, with regards to the "libertarian" theory he supports. In the mid 18th century, he stands for “something else” when it comes to the liberation of black slaves., As a “pioneer”, he also bears the mark of his time. We do not want, therefore, to see him as an abolitionist situated at the end of a process, but as one who “takes the first steps in the walk of freedom.” His abolitionism, situated as it was in the mid-18<sup>th</sup> century, could not be “comprehensive”. It would be absurd for us to expect him to carry an ideal that was “chemically pure” of any contamination by slavery.

On the other hand, he was a prophetic voice in shaking the legal foundations of black slavery itself. And the strength of his prophetic voice is in the legal premises he put in place, which would destroy the entire legitimacy of slavery at the time. Just as it had been in force at that time, the slave regime had no legal basis, according to Rocha Ribeiro, reducing it to a simple act of piracy or theft. With this legal premise, a whole series of consequences were necessary to shake the entire edifice of colonial slavery, based on this “illegitimacy.” These consequences can be summarized in two words: restitution and indemnification. It was particularly necessary to restore the freedom “stolen” from the black people and “pay them”

damages resulting from such enslavement. This theory subtly represented a “subversion” of the slave system in force.

Given this conclusion, which was legally required and would bring practical consequences that could in no way be accepted by the colonial system, Ribeiro Rocha devised an “expedient”, which was also legal, as a practical solution. This expedient cannot be classified simply as a “capitulation” of his libertarian ideal or as an “opportunistic attitude” to deny everything he had previously stated as being the premise of a libertarian conclusion.

We can also hypothesize that the adding of a “legal concession” was a requirement of Pombaline censorship, allowing the slave trade to continue in the Colony. Behind the words of Ribeiro Rocha, there is room for such a hypothesis. The author of *Etíope Resgatado*, early on in the Consecratory Prayer, declares that his book could be “useful to some, though not well regarded and well received by all.” And he continues by addressing the Virgin Mary: “Make it thus, merciful Lady, that the use and possession of the wretched captives conform to the edicts of justice, within which they be smoothly expounded [as was possible and adaptable] with the modifications of prudence and equity. And that in all other instances we always take the middle path, which is your path...”

It is the main principle of the edicts of justice on which Rocha Ribeiro will rely. These “edicts” - written in *Argument and Reason for the Work* - legitimized slavery at that time under the “righteous titles” of prisoners of a just war, legal punishment or the sale of children by their parents to save themselves from dire need. Outside of these “righteous titles”, slavery was illegitimate. And one of those so-called righteous titles was “slave mother.” Ribeiro Rocha proclaims the “free womb” as an “edict of justice.” He also declares as an edict that all or almost all slavery existing in the Colony is illegitimate.

It was in the systematic placement of such libertarian premises that Rocha Ribeiro was a “pioneer” of abolitionism. His thesis subtly involved the certain abolition of the reigning slave system and the awakening of what the colonial government was so afraid of: the restlessness of consciences. The aforementioned expedient that Ribeiro Rocha relies on to render his thesis viable is that of rescue. Not the “rescue” in which “dominion” over the slave would be acquired, but simply that in which his “pledge” would be temporarily acquired. In other words, traders and slave owners could retain them in the guise of a “rescue under pledge”, i.e. they could use his/her work as compensation for the money invested; but after a certain period of time, the slave would be freed. The period of time would be 20 years, which,

under our references, would be equivalent to the five years proposed by Roman Law. Hence, the author of *Etíope Resgatado* seeks to harmonize the legal requirements with the economic reality of the Colony at that time.

In this attempt at “harmonization”, Ribeiro Rocha appears to be dependent on his temporality. The concessions he makes as regards the previously placed libertarian demands seem, at first glance, to invalidate his pioneering abolitionism. There is a certain lack of logical coherence between the premises he introduces and the pragmatic conclusion that he arrives at afterwards. The premises he put forward would logically lead to requiring the real and almost complete release of black slaves. However, if we examine his work well, we can see that the expedient of the rescue under pledge, although delaying the release and possibly being subject to manipulation from the slaveholders, continued to involve a threat to the colonial slave system. Once the premises were read with all their strength of argument, which would demolish almost all the legal bases of slavery, the reader, conscious of the abolitionist idea, might not be convinced of the previous pragmatic arrangement, harmonizing those legal requirements with the current economic situation. It was the danger of the “restlessness of consciences” and, even more so, “of the libertarian-legal ferment.”

Furthermore, Rocha Ribeiro's pragmatic solution involved a “subversion” of the colonial slave system. This is because the “non-dominion” over the slaves rescued under pledge profoundly changed the legal status of black slavery. The slave was no longer the “property” of the boss, but simply a person who “would provide services”, not compulsorily, but as a partner in a contract. This “rescue under pledge” involved the transformation of the entire jurisprudence relating to slaves. Slavery would suddenly become a simple “process of liberation.” And it represented, in fact, a subversion of the established order.

That the pragmatic attitude of Ribeiro Rocha did not annul the strength of the abolitionist argument of his thesis can be seen through the words with which his book is praised by a number of contemporary witnesses. Thus, for example, Father Francisco Gomes do Rego, beneficiary of Bahia Cathedral, writes him a *décima* (10-stanza poem), proclaiming him “liberator of Black People”: “For such a noble rescue / Ye, whom Moses elected, / Ye made him so perfect, / That you deliver all of the people. / To say so much to move me, / To see on this occasion, / That you with pen in hand / To all ye freed: / To the White sinners, / To the blacks in slavery”.

The same testimony is proclaimed by Jesuit priests, who, anonymously, speak out in the introduction to *Etíope Resgatado*, exalting Ribeiro Rocha as a liberator of black slaves: “This unhappy people, which cruelty’s/ Interests has held captive /Through you, Ribeiro, have become rescued, /Through you today they regain freedom. /Thus far with no respect for humanity / The Laws of covetousness violated, /But in ye the Law was restored / Make ambition yield to the truth today. /But what do you do? Do you not see that those redeemed / From the cruel slavery that oppressed them /At your submission they are surrendered! /So it is, but now without tyranny, / Only captives of love, and thankful, /All wish to have your competence”.

And, in the same tone, Father Manuel Xavier S.J., Professor of Sacred Theology, praises the author of *Etíope Resgatado* for proposing the “redemption of the wretched Moorish people” and proclaims that in the book, there are “no pages with the sound of servitude.” In an epigram in Latin, he writes: “It is what the subject and the excellence of Manuel’s book translates, / In perfect harmony with his mind. / The value of the work stems from this. You may ask: what? / That is the price with which freedom is usually sold.” Another Jesuit, Father Manuel dos Santos S. J., commends the author of *Etíope Resgatado*: “By a legal act, Ribeiro saves / The blacks from Libya, who by hard luck/ Were forced to submit to the yoke of unjust slavery.” And his colleague from the Society of Jesus, Father João Nogueira S. J., in the same tone commends him: “Not allowing more of what continues to prevail / This yoke by which I have been / Chained with tough shackles, after which Ribeiro / Delivered it from the abyss...”.

Father Tomás Honorato S.J., in two epigrams, also praises Ribeiro Rocha as a “liberator of slaves” who removes the “servile yolk” with his work. This same ideal of freedom in the work of Ribeiro Rocha is seen by Dr. Luiz da Costa Farias, who, in the introductory pages of this book, writes:

Mourn no longer over your sad state / The wretched slave, with no luck;  
/Weep not, your fate and tough luck / As you will no longer be so unhappy.  
/Shelter, protection, care and charity, / This book, Ribeiro, assures you;  
/Because your ingenuity herein determines, / Until you are left completely freed.  
/Ye that make the African rather elusive /Nevermore be a slave of rigor,  
/But always be a captive of love (ROCHA, 1992, 8-20).

Of course, all of these compliments paid to Ribeiro Rocha should be seen in their poetic and rhetorical formulation. However, one thing is clear: all of them saw *Etíope*

Resgatado as a “liberating” work. And the fact that all of them exalted the libertarian objective of Father Ribeiro Rocha leads us to the previously mentioned hypothesis, which is that Pombaline censorship made demands in allowing the publication of this work. It was in the acceptance of these demands that the “concessions” to the slave system were made by Ribeiro Rocha. Was it capitulation or opportunism? Or was it a strategy to subtly achieve the spreading of his libertarian ideas? It should be remembered that such libertarian praise and encouragement, forming a true Jesuit choir of voices, represented “the swan song” of the sons of Saint Ignatius, on whose heads hung the sword of Pombaline condemnation.

In the license issued by the Holy Office for the book’s publication, Friar Lourenço de Sta. Rosa writes that it deals with a “work so pious, so devout and so scholarly, ... not leaving out the timeliness of the sacred text, by the rules of Canon Law, by the Laws of Civil Rights, and of the Gentiles.” As a censor, however, he emphasizes the book's subtitle: “Theological and Legal discourse proposing the manner in which one trades, and validly has and owns, black African captives, as regards one or another legal forum, and the main obligations that impinge upon those to whom they are made use of..” However, although representative of the institution and of censorial power, Friar Laurence adds: “I find this pamphlet thoughtful”, and he sees it as “introducing fairly bitter reprimands to the slave traders.”

Qualifying *Etíope Resgatado* as a “pious, devout and scholarly work”, and emphasizing that Ribeiro Rocha harshly censured the slave traders, leaves Friar Lourenço with an ambiguous reading in his approval. These "bitter reprimands" involved a denunciation that practically all trade in slaves, as it existed in the Colony, was illegitimate for not fulfilling the requirements of the law. And such reprimands were scholarly and piously based in Canon Law and Civil Law, so much so that if Friar Laurence focused on the manner proposed by *Etíope Resgatado*, of “validly trading and having” black slaves, this manner would be precisely “rescue under pledge.” And this rescue would involve an entire transformation of the slave system into an employment contract for a determined period.

### **Father Ribeiro Rocha's biographical data**

Father Ribeiro Rocha simultaneously amasses evidence and switches it off, so to speak, with *Etíope Resgatado*. The silence surrounding his name and his activities after the publication of this book in 1758 is astounding. The first impression one gets is that there is a

measure of censorship, not only around the book but also its author. In the publishing license of *Etíope Resgatado*, issued by the Holy Office in 1757, it states that Father Manuel Ribeiro Rocha is from Lisbon. A graduate of the University of Coimbra (bachelor's degree), he resides in Salvador, where he works in the legal profession (ROCHA, 1992, p.18). His date of birth, according to José Honório, would have been in 1687 (RODRIGUES, 1979, p.416-417). It should be noted that this confuses the Jesuit Father Manuel Ribeiro da Rocha SJ (1687-1745) with the author of *Etíope Resgatado*.

After graduating from Coimbra, he traveled to Brazil. The earliest news of his presence in Bahia that we know of is dated in the year 1724. He was part of the *Academia dos Esquecidos* (Academy of the Forgotten) in Salvador, and registered himself as “magister artium.” He was a member, alongside Sebastião da Rocha Pita, Inácio Barbosa Machado and several others (CASTELLO, 1969, p.98, 175). In 1738, there was news of his position as a lawyer in the Third Order of St. Francisco, and in 1742, he became an attorney to the *Santa Casa da Misericórdia* (ALVES, 1981). His contract as a lawyer for civil cases at the *Santa Casa* guaranteed him an annual salary of 110,000 reis.

In 1757, he held the position of Apostolic Notary at the Archdiocesan Curia in Salvador. Diogo Barbosa Machado, in the 4th volume of his *Lusitana Library*, writes in 1759 that he had a degree in Canon Law from the University of Coimbra and that, in the city of Salvador, he held the position of attorney for forensic causes. Barbosa Machado stresses that he was very learned in the Holy Fathers and Ascetic Authors. He does not cite, however, *Etíope Resgatado*, but rather two other works published in 1758: “*Socorro dos Fiéis aos Clamores das Almas santas excitado por meio de Estímulos doutrinários práticos, com que se renovam os Danos do Descuido dos Vivos, e se promove o alívio das Penas dos Defuntos*”, Lisboa, 1758; and “*Nova Prática dos Oratórios particulares, e na Vida Cristã competente ao seu mais reto, e proveitoso Uso*”, Lisboa, 1758 (MACHADO, 1935, 224).

It is significant that Barbosa Machado omits *Etíope Resgatado*, which was brought to light in the same year as the aforementioned works. The omission of such an important work is strange when he cites works of much lower value. Furthermore, Ribeiro Rocha was a fellow in the Academy of his brother, Ignatius Barbosa Machado, in Bahia. The author of *Biblioteca Lusitana* had a very close bond with Father Ribeiro Rocha, as they were both from Lisbon and may have been fellow students at the University of Coimbra, where Barbosa Machado, born in 1682, began his studies in 1708 (MACHADO, 1930, 620-621). If not Diogo, at least

Inácio Barbosa Machado may have been a fellow student of Father Ribeiro Rocha. Ignatius graduated in Law in the year 1716. Moreover, he would exercise the office of a royally appointed judge (*juiz de fora*) in Salvador and he would be a fellow student of Rocha Ribeiro's at the Academia dos Esquecidos (Academy of the Forgotten) from 1724 to 1725 (CASTELLO, 1969, 125-128). Returning to Portugal, he became an ordained priest in 1754, upon the death of his wife. He devoted himself to Portuguese military history (MACHADO, 1931, 488-489). All this makes the omission of *Etíope Resgatado* by Barbosa Machado even more inexplicable. Its omission, as we have said, leads to the logical conclusion that there was a ban on the works of Ribeiro Rocha.

It is significant that the publication of *Etíope Resgatado* occurred during the final outcome of the Jesuit question, just before property was seized and members were expelled from Brazil. Would Father Ribeiro Rocha have assumed the position of legal defense of the Jesuits, as did his Archbishop José Botelho de Mattos? As is well known, the Archbishop of Bahia was commissioned by Cardinal Saldanha to assume the “Reformation” of the Society of Jesus in his Archdiocese. After a conscientious investigation, D. José Botelho sent “a sincere testimonial” signed by 80 people, the most eminent of Bahia, who denied the charges relating to the Jesuits’ trading activities. Pombal responded with a severe punishment, forcing him to renounce and leaving him without any income from the Mitre, practically handing him over to public charity at the advanced age of 80.

Would Father Ribeiro Rocha have been involved in the Jesuits’ defense? Let us recall that several Jesuits from Bahia, on the occasion of the publication of *Etíope Resgatado*, applauded him as the “liberator” of black people oppressed by human cruelty. And Father Paul Amaro SJ, when giving his approval to this work, applauds the book, as it seeks the liberation of enslaved blacks, “as if there were no souls redeemed by the blood of Jesus Christ” (ROCHA, 1992, 21). It is noteworthy that a few years earlier, in the process of drafting the Pombaline law in 1755, which restored freedom to the Indians, he delivered a strong verbal attack against the Jesuits (and other religious peoples), accusing them of a monopoly on indigenous slave labor, which was the reason why – as Pombal argued - they opposed the liberation of the Indians. One possible Jesuit response, applauding the way the Negroes were freed as advocated by Father Ribeiro Rocha, would begin to exasperate, without a doubt, the Marquis, who relied on black slave labor to supply the manpower that the freed indigenous natives formerly provided.



All this leads us to the hypothesis that the work of Father Ribeiro Rocha, along with his author, must have suffered restrictions or even been banned by the Pombaline censors. We could add that, in all likelihood, Father Ribeiro Rocha was involved in the Jesuit process. When Benedict XIV appointed him “Reformer” of the Society of Jesus in Portugal, the Cardinal of Lisbon, Francis Saldanha, by means of a Brief on April 1, 1758, also appointed the Archbishop of Bahia as “Commissioner” in parts of Bahia. In August 1758, Judge Joseph Mascarenhas, along with Magistrates Stephen Manuel de Almeida Vasconcelos Barberino and Antonio de Azevedo Coutinho, formed a court, alongside the Archbishop of Bahia, for the trial of the Jesuits. However, soon after, the court was dissolved for having found the Ignatians innocent. Pombal also “deposed” the Archbishop and ousted Judge José Mascarenhas, arbitrarily ordering the seizure of the Jesuits' property and their expulsion from Bahia and Brazil (CAMARGO, 1955, 246-250; LEITE, 1945, 103-104).

Would Father Ribeiro Rocha - who was then the Apostolic Notary of the Ecclesiastical Chamber and lawyer for forensic causes at the Santa Casa da Misericórdia - have been the legal advisor to the Archbishop mentioned in that process? After the publication of *Etíope Resgatado*, as we said earlier, news about Father Ribeiro Rocha ceased. When he wrote *Etíope Resgatado*, he claimed that “I wrote it without talent, and even almost out of breath” (p. 2). And Father Francisco Gomes do Rego, beneficiary of Bahia Cathedral, claimed in his decimas of praise, that Rocha Ribeiro “suffered painful disease for over twenty years, yet still composed this book” (p.16). In the year 1761, a widower named Francisco Ribeiro Rocha, who died on April 25, was buried in the Franciscan Convent, according to the Cathedral's Book of Deaths (1734-1762); and the Book of Deaths from the same Parish, initiated in 1778, mentions (according to Marieta Alves's interpretation) the date of Father Ribeiro Rocha's death as March 31, 1779. We went through the aforementioned book of deaths, but its condition did not allow for a reading of the contents of that note. Marieta Alves, after quoting the date of March 31, 1779, adds: “Nothing else can be added about it because of the damage to the page on which his death was recorded” (Book of deaths from the Cathedral Parish, 1778, p.90). Paulo Suess (*Etíope*, p. XXV-XXVI), based on research in the National Archives of the Torre do Tombo in Lisbon, offers the hypothesis that Father Manuel Ribeiro da (sic) Rocha had returned to Portugal, where he died after June 9, 1781. Everything suggests some confusion that was almost homonymous with the author of *Etíope Resgatado*.

### **Ecclesiastical context of “Etíope resgatado”**

Ribeiro Rocha is situated in the middle of the “Age of Enlightenment”. It was a time of profound ideological ferment in almost all European countries. Even Portugal was not immune to the ideas of Enlightenment, which were surreptitiously penetrating the University of Coimbra. The Church of Rome itself experienced a breath of humanist openness under Pope Benedict XIV. However, in the very same Portugal, reactionary forces would be in league against the enemies of the “throne and the altar.” Against this threatening virus, they sought to create an entire system of ideological patrol, especially as the ideals of these “subversives“ were a threat to the slave regime and to the whole economic system of colonial Brazil.

Etíope Resgatado is situated in the context of the Pontificate Church of Benedict XIV (1740-1758). The papacy was under strong pressure from the Catholic Powers, who claimed rights and entitlements against the Church of Rome. Benedict XIV sought to maintain a policy of balance and tolerance in the face of the Courts, so as not to divide the forces, which he considered “internal allies” against the “external enemies” of the Church. This attitude of tolerance also proceeded his “enlightenment training”. He was even awarded the suggestive title of “enlightenment Pope”. He distinguished himself not only in the fields of Philosophy and Empirical Sciences, but also in Canon Law and Theology. As a man of the Enlightenment, he sought to “spread the light of new knowledge”, founding four different academies for the study of Ancient and Ecclesiastical History in Rome, as well as the Ecumenical Councils and an Academy of Canon Law.

What perhaps most closely relates to the context of Etíope Resgatado is its bull, *Immensa Pastorum*, which was addressed in 1741 to the Bishops of Brazil concerning the freedom of the Indians. Although Benedict XIV made no direct reference (CARVALHO, 1985, 45-46) to the freedom of black slaves, he dwelled on the argument that one should not unload mistreatment and slavery upon the heathen, as this would result in damaging their conversion to Christianity. This argument could also lead to libertarian applications for black Africans. Indian slavery, called “inhumane” by the Pope, could, therefore, extend the classification of “inhumane” to black slavery as well.

### **The Church of Portugal at that time**

Fortunato de Almeida, in his *História da Igreja em Portugal* (History of the Church in Portugal), states that “the breaking of relations with the Holy See in 1760 was sought after and provoked, to more freely exercise a wide dictatorship of temporal power in ecclesiastical matters.” Vexatious laws for the rights of the Church were enacted in this period. Furthermore, the Pombal government opened the doors to all attacks on the established ecclesiastical order and the Catholic hierarchy. Pombal declared, loudly and clearly, the supremacy of temporal power over ecclesiastical power; and, under his compliance, through an innumerable series of steps, he would “seek to lead the public spirit to the conviction that the ecclesiastic class was the greatest enemy of the State” (ALMEIDA, 1970, 255).

The Marquis of Pombal sought to make the approval of printed books the exclusive right of the State. He then declared that “not even the clergy [has] the right to impede us from the lessons of books that seem good, having been published with the authority of the sovereign” (ALMEIDA, 1970, 338). This conflict of jurisdiction, established between the civil and ecclesiastical authorities, over the censorship of books facilitated “the invasion of impious and revolutionary literature, which had caused the greatest damage in France, subverting the social order and attacking religious doctrines” (ALMEIDA, 1970, 350). The most astonishing thing about this regalist attitude of the Marquis of Pombal was the position of subservience by much of the hierarchical Church of that time. The Marquis managed to bend despotic dignitaries of the Church to his will, such as Cardinal Saldanha, who bore the sad role of “secretary of orders” in the Pombaline government, to implement its plan of religiously condemning the Society of Jesus.

That was the prevailing climate in the spheres of the Roman Curia and in the ecclesiastical politics of the Portuguese Court. In Bahia, the destinies of the Archdiocese were directed by Don José Botelho de Mattos, who governed the Bahian Church from 1741 to 1759. It was under his rule that Father Ribeiro Rocha developed and published “*Etíope Resgatado*”. There has still not been enough research about his activity at the head of the Church of Bahia. In what was then the capital of Brazil, it was said that the clergy was the most learned of Brazil. By the end of his administration, the Jesuits had been active in the

development of their studies and in the training of future priests. Indeed, D. Botelho de Mattos demonstrated unparalleled courage in defending the Jesuits, when facing the wrath and despotism of the Marquis of Pombal. Appointed commissioner of the “Reform” of the Society of Jesus by Cardinal Saldanha, he refused to condemn it as Pombal had demanded. For this reason, he was pressured to resign in 1759, leaving to reside in the outskirts of Salvador in Itapagipe, at the mercy of charity from friends. He died in 1761, at over 80 years of age (CALDERON, 1970, 97-98).

It is quite probable that Father Ribeiro Rocha had been closely involved with the same problem that struck his Archbishop, since his sense of equity would show solidarity with the Jesuits, who were blatantly wronged by the despotism of Pombal. He, after all, had Jesuit friends and admirers, and from the time he began his studies, he was united in a special way with the Fathers of the Society of Jesus. He held the position of lawyer for the Santa Casa da Misericórdia and was Protonotary Ecclesiasticus, dealing closely with legal issues involving the Church. Therefore, it was expected that he would have special solidarity to the Jesuit cause, since even wealthy merchants had shown solidarity and religious Orders had mobilized massive support and common prayers on behalf of the unfairly persecuted Ignatians.

### **Legal context of “Etiópe resgatado”**

Ribeiro Rocha is situated in the context of a fermenting of laws by the liberal movement, which Enlightenment and Encyclopedism were introducing to Portugal. Portuguese legislation would have a certain resonance with Enlightenment ideals, as long as they did not interfere negatively with the economy. Thus, for example, the problem of slavery would have a different legislative outcome as regards Portugal or Brazil, as Brazil could not economically sustain itself without slavery, as was claimed. Two points in particular ferment legislative activity: the dignity of the human being and the theory of society. However, there would be a whole system of concessions to society to the detriment of the individual, as per the ideology of the legislators.

In the mid 18<sup>th</sup> century, by which time Father Ribeiro Rocha had published his “Etiópe Resgatado”, a veritable invasion of the so-called “wicked and revolutionary literature” had come to Portugal. One of the main focal points affected by this contagious “virus” was intellectuality, especially at the University of Coimbra. All literature coming from France,

which, as Fortunato de Almeida writes, was "subverting the social order and attacking religious doctrines", was avidly read, in avoidance of the inquisitorial gaze of the censors (ALMEIDA, 1970, 350). The very foundations of the social order, its organization and its legal apparatus were put through the scrutiny of scientific re-evaluation and through the prism of "new knowledge". It was the flickering of the "Age of Enlightenment". It was the ideas of Enlightenment which, seeking to affirm human reasoning and the autonomy of man in the face of dehumanizing institutionalism, also put a special accent on the problem of slavery. The very foundations of slavery had been subjected to scientific judgment. To stop this "subversive" wave that threatened the established order in Portugal, the royal court sought to arm itself with appropriate instruments. The Chief of Police, Diogo Ignacio de Pina Manique, was placed in charge as the war strategist against the subversion of social order and religious doctrines (ALMEIDA, 1970, 255). And the Pombaline government sought to privately censor imported books or to publish them in Portugal.

At the time of *Etíope Resgatado*, slavery was being focused on, mostly from the perspective of Natural Law. Among other arguments which sought the destruction of the legal basis of existent slavery, the primary one was "human dignity". Slavery fundamentally hurt the dignity of man "by annihilating him of all his rights, all of his personality... the highest of things that he received from the Creator, who made him in his image, degrading it in this way to the condition of the irrational" (MALHEIRO, 1976, 72). From Montesquieu, or rather, from his "Spirit of Laws" (1748), all the basic arguments on which slavery was erected were directly attacked. It is quite likely that Ribeiro Rocha was aware of such a work. In it, a natural right was categorically denied, reducing a prisoner of war to a state of slavery, even more so if it were perpetual. The argument that the government had the right to condemn anyone, whatever the crime, to perpetual slavery was refuted. It also held that Natural Law did not give anyone the right to make a contract to "sell themselves" in perpetual slavery. Above all, starting from the dignity of the individual, it stated that the natural inequality between men could never serve as an argument to legitimize slavery (MALHEIRO, 1976, 72). One thing, however, that Montesquieu had invested against, and that may have exerted an indirect influence on Father Ribeiro Rocha, was what he considered legal reversal, i.e. that religion and customs "are venerated instead of the law." This was especially so for Religion, which "constitutes a kind of repository and permanence", serving, therefore, the foundation of the law. Such legal inversion normally led to despotism (MONTESQUIEU, 1759).

It is noteworthy that the weight of Father Ribeiro Rocha's argument was not in Religion, but rather in the Law. Montesquieu reformulated the concept of Law, rejecting the sense of "command coming from a legislating will." For him, the Law derived from the nature of things, in a normativity intrinsic to beings. This normativity was not deduced from abstract essences, but rather from concrete reality, in which each specific being had its own laws (Montesquieu, 1759, 2, 25). It was this particularity of each concrete reality that led Montesquieu to state: "I do not write to censor what is established in any country. Each nation will find the reasons of his maxims in this work" (Montesquieu, 1759, 19). Montesquieu, therefore, inaugurated a new perspective in addressing social and political problems, excluding religious or moral concepts and rejecting deductive or abstract theories (Montesquieu, 1759, cover). It was, above all, from the "constitution of our being" that the foundation of law arose, and not from the positive determinations of legislators.

Referring to slavery, Montesquieu argued: "Slavery by nature is not good" (MONTESQUIEU, 1759, 213), since, "as all men are created equal, it must be said that slavery is contrary to nature..." (MONTESQUIEU, 1759, 216). He went on to undo the arguments that legally legitimized slavery at that time: the rescue of prisoners from a just war, legal punishment and the automatic selling of debtors. He says, categorically, that "these jurists' reasons are not reasonable", since claiming the legitimacy of the rescue of prisoners of war due to the fact that the prisoner was saved from death would be like recognizing the legitimacy of the extermination of prisoners of war. "If a prisoner of war cannot be reduced to slavery, then with much less reason their children should" (MONTESQUIEU, 1759, p.213). As for the argument of automatic selling, Montesquieu retorted: "It is not true that a free man can sell himself."

In Montesquieu's condemnation of slavery, however, there are two statements that could "disturb the consciences" of Christians, including Father Ribeiro Rocha. It is when he states that "the right of slavery arises from the contempt that one nation has for another, a contempt based on the difference in customs" (MONTESQUIEU, 1759, 214). And especially when he expresses himself thus: "I would also like to say that religion gives those who profess it a right to reduce to servitude those who do not profess it, in order to work more easily for its propagation" (MONTESQUIEU, 1759, 214). However, this was more or less the argument in vogue when it came to the enslavement of blacks from Africa, an argument that was formalized in a special way by Nicolau V in 1454. It was precisely this rationale that

Father Ribeiro Rocha sought, in large part, by removing the authority of Father Luiz Molina S.J.

A "subversive" ferment of the social and legal order, in effect at that time, had its special focus in the University of Coimbra. There, teachers and students eagerly indulged in reading "heretic and subversive" books surreptitiously imported from France (ALMEIDA, 1970, 350). This Enlightenment ferment that troubled the University of Coimbra would be manipulated by Pombal in the Law dated 18 August, 1769, concerning the reform of the University Statutes, a reform that would materialize from the Law dated August 28, 1772. These Statutes proclaimed the excellence of the homeland laws on the Romans, which touched on Portuguese nativism as the subversive influence coming from abroad. It insisted on the history of the Portuguese people and their "peculiar legislation" (MARTINS JÚNIOR, 1979, 3). "New knowledge", or the ideas of "the age of Enlightenment" was accepted, but with the peculiarity of safeguarding the Portuguese Nation and its History, implemented in Overseas territories. In this aspect of "national peculiarity", black slavery could very well be inserted as something that was part of the very history of the Portuguese people.

Portuguese legislation had, in its original process, legitimized the slavery of Africans as a result of the conflict with the Mohammedans, who had enslaved Christian prisoners (MARTINS JÚNIOR, 1979, 23). Aside from this war-like fact, there was a legal foundation that had already been formed in the distant past. The most cited argument was that of the "rescue of prisoners of a just war". These prisoners, allegedly sentenced to death, would find their salvation in the "rescue" or in their purchase as slaves. This legal foundation was shrouded in commercial activity, which would give it a big boost since the slave came to be a profitable "commodity".

In the middle of the 18<sup>th</sup> century, when a whole world of ideas regarding the value and dignity of the human being was beginning to simmer, laws were established in Portugal, such as the law of March 3, 1741, which ordered runaway slaves to be branded with an F (for fugitive) using a hot iron; if they decided to escape, they would have one of their ears cut off (MARTINS JUNIOR, 1979, 35). On January 24, 1756, a Charter stipulated that in lieu of a sentence of 10 years in the galleys, black slaves in Brazil who were found with knives and prohibited weapons would be punished with 100 lashes at the pillory, repeated every other day for 10 days (SILVA, 1830, 502). This last resolution caused deep disappointment. There had been an expectation, after the Law of June 6, 1755, that even though the decreeing of

freedom for Indians had excluded the blacks, some hope would be found in the words of the King: "For now, I will not take further action on this matter." The aforementioned criminal resolution of 1756 showed that "measures" relating to the freedom of black slaves in Brazil were not in the mind of the King of Portugal, or, more precisely, in the mind of the Marquis of Pombal.

It should be remembered that the law of June 6, 1755 established certain libertarian premises that could also be applied to blacks, as it was said that such a law "restored" freedom to the Indians of Brazil instead of "conceding it." It had been argued that this "restitution" was based on the "obvious [proof] that, in its favor, results in the presumption of Divine, Natural and Positive Law, which is for freedom..." It added that the enslavement of the Indians had no other "reason than greed and the strength of those that had captured them, and the ruggedness and weakness of the so-called captives." The King concluded with words that led, as we have said, to an expectation that something similar would be decreed for blacks: "This general provision excludes only those derived from black slaves, who will be preserved in the domain of their current masters, while I take no further action on this matter" (SILVA, 1830, 369-376).

The libertarian spirit that transpired from this Law could very well be applied to blacks, because the King had not declared slavery to be defunct as such. The institution of slavery would continue to have legal force. What the King had done was to declare authoritatively that the legal bases for the enslavement of the Indians were illegitimate. This is because there was no legal legitimacy to the two reasons on which indigenous enslavement were based: the "rusticity" of the Indians and the "greed" of the settlers. However, was it not practically the same situation for the black slaves?... Behind the word "greed", which was inept in legally justifying enslavement, weren't the economic arguments for the enslavement of blacks not synthesized? And didn't the word "rusticity" imply the right to enslave blacks because of a supposed inferiority stemming from their blackness?

If expectations were disappointed that "measures" would be taken to free black slaves in Brazil, several positive "measures" in Portugal would soon emerge regarding black slaves there. There was some hope that such measures, sooner or later, would also extend to Brazil. The Charter of September 19, 1761 stated that all black slaves brought to Portugal would remain freed and emancipated, "without need for any other letter of manumission and emancipation, nor of any other Order, beyond the Certificates of the Directors and Officials



from Customs Offices of the places where they disembarked." This was the express prohibition of the slave trade in Portugal. This law concluded with the threat of severe punishment to those who disregarded it, by applying to offenders "sentences that be ordained by law, against those who make private prisons." The Charter of 1761 went even further by declaring that the transgressors were punishable by law, reserved for those "who subject free Men to Captivity" (SILVA, 1830, 811-812).

This assertion that it was illegal, under the terms of that Permit, to enslave blacks because you cannot enslave "free men", would lead to much bigger inferences than the simple determination of that Law. This was especially so when it resounded in the context of Enlightenment ideas, such as Montesquieu's, which challenged slavery in the name of human dignity, and proclaimed that man, who is free by nature, cannot be enslaved. It is also worth noting the discrimination in this law as regards the inferiority that it established in Portuguese Domains, such as Brazil, in relation to the Lusitanian metropolis. The aforementioned Charter of 1761 argued that the transport of black slaves to Portugal was shocking, given the "laws and customs of other polite Courts", but that in Portuguese Domains, they were needed for agriculture and mining (SILVA, 1830, 811-812).

The anti-trafficking law of 1761 was complemented by the Charter of January 16, 1775, which could be considered the law for the Abolition of Slavery in Portugal. The King argued that, despite the law of 1761, which sought to impede "the perpetuation, in the [Kingdoms of Portugal and Algarves], of the enslavement of black Men", "there are still some People so lacking in Humanity and Religion, who in keeping Slaves in their homes for the reprehensible propagation of them, perpetuate the captives in a nefarious trade of sins and encroachments on the freedoms of the miserable ones born to those successive and lucrative concubines, under the pretext that the wombs of Slave Mothers cannot produce free Children, as per Civil Law". This law not only involved the declaration of a "free womb" for those born in Portugal, but also, to some extent, the denial of the legal perpetuation of the "slave womb". It was argued that the legal principle of "fructus sequitur ventrem" had been applied improperly, making captives into "the Descendants of Slaves, where there is no more blame than that of the unhappy condition of captives." The "infamy of Captivity" cannot extend beyond the term of the corresponding infamy with which the descendants of the "most abominable Defendants of atrocious crimes against the Divine Majesty or Humans, are punished."

With these assumptions in place, the King determines that, henceforth, all those born to slave mothers in Portugal will be free and "able for all trades, honors and dignities, without the distinguishing mark of Freed men." There was, however, in the legal foundation of this Charter, a resolution in which the "infamy of captivity" could not pass beyond one's great grandson. It was a legal precedent that could very well apply to Brazil, especially when the King concluded by arguing that the infamous distinction of freed men was incompatible with "the Christian Union, and Civil Society today makes it intolerable in My Kingdom, as it has been in all others in Europe" (SILVA, 1830, 639-640). Why couldn't this argument, which was legally based – and considered slavery to be inhuman and incompatible with Christianity in the Kingdoms of Portugal and Algarves – be applied in Brazil?

If the reasoning behind the laws abolishing the enslavement of Indians in 1755 and the slave trade to Portugal led to conclusions that were favorable to the liberation of blacks, the Pombaline government sought to defend itself from such conclusions through the Law of Good Reason, dated August 18, 1769. This law interpreted the determination of the Ordinances of the Kingdom [L.III.t.64], which said that "where the law, style or custom of our Kingdoms provide, all other Laws and Rights cease..." (MARTINS JÚNIOR, 1979, 78). By this Law, it was stated that Good Reason, in addition to the primitive principles, founded Roman Law and the Law of the Gentiles, as well as "the good reason that is established in Political, Economic, Mercantile and Maritime Laws..." (MARTINS JÚNIOR, 1979, 79); and in that Good reason, the Christian Nations have based their laws on "manifesting the usefulness of increasing the people's wealth."

Isidoro Martins Júnior maintains that this Law of Good Reason revolutionized Portuguese Law "through the intervention of a critical-philosophical element in the interpretation and application of the laws" (MARTINS JÚNIOR, 1979, 81). With regard to the justification of black slavery, I would say that this Law of Good Reason has found, in the record of "economic reason", an alibi for all critical-philosophical arguments which, based on human dignity, could shake the legal foundations of black slavery.

The publication of "Etiópe Resgatado" occurs at the height of the seizure of Jesuits' assets and their expulsion. Father Ribeiro Rocha should, as we said before, have been involved in these events and, most likely, would have been alongside the wronged Jesuits. There are grounds for the hypothesis that he must have been affected by the wave of punishments that Pombal unleashed in Bahia against those who did not obsequiously

subscribe to the orders to seize and expel the priests from the Society of Jesus. Thus, Archbishop D. Botelho de Mattos, the Magistrate Dr. José de Mascarenhas, the Secretary of State Dr. José Pires de Carvalho e Albuquerque and several others were punished (NOTÍCIAS HISTÓRICAS, 1964, p.130).

As it was a significant part of his activities, the legal training of Father Ribeiro Rocha in Coimbra would have been completed under the reign of D. João V. There was, at that time, a "prevalence of royal power". While "the lawyers' scent of freedom disappears, the most vulgar subservience occupies status." If there is some freedom, it is in writing against the legal claims of the Holy See, in the face of royal Rights (MARTINS JÚNIOR, 1979, 76). During the Pombaline period (1750-1777) that follows, what prevails is the discretion of the Marquis of Pombal. But on the other hand, Martins Júnior claims that Pombal did "the enormous service of taking away [from monarchy and civilization] the dangerous tentacles of theocracy and aristocratic oligarchy" (MARTINS JÚNIOR, 1979, 75-77).

Even the "heretical and subversive" works, which came from France, would surreptitiously reach the intellectual world of Bahia. In 1748, Montesquieu's "L'Esprit des Lois" was published. Raymond S. Sayers establishes a certain relationship between the publication of "Etiópe Resgatado" and "L'Esprit des Lois" (SAYER, 1958, 98-100). He maintains that Father Ribeiro Rocha, while not denying the legal validity of slavery, based on the rescue of prisoners of a "just" war, as Montesquieu does, attacks the legal bases of slavery to support the injustice of alleged "fair" wars, from which black slaves came. He classifies these purported "just" wars as, simply, "acts of robbery and piracy". Even when Father Ribeiro Rocha comes to acknowledge that "black slavery is necessary for the economy of the kingdom", he also seems to have been inspired by Montesquieu, who admits that laws can "put slaves in a position to buy their freedom" and yet "favor annuity". We cannot, with evidential arguments, show a dependency, or even a direct influence, of Montesquieu on Father Ribeiro Rocha. In his "Etiópe Resgatado", the author of "L'Ésprit des Lois" does not figure in the authors cited, for peculiar reasons. In 1757, a year before the publication of "Etiópe Resgatado", the work of the Benedictine Domingos Couto Loreto, "Desagravos do Brasil e Glória de Pernambuco", was published. It is noteworthy that Loreto Couto, when speaking of the mulatto Calabar, insisted on the equality of men, whose value should be measured by their virtues and not by their origin.

### **Father Ribeiro Rocha's abolitionist project**

Etíope Resgatado involves, as we have mentioned, an abolitionist project based on a legal argument. Therefore, the legal system, which legitimized the institution of slavery at that time, suffers from its limitations. However, Ribeiro Rocha brings something else to the reinterpretation of existing laws. That something else is, above all, the application of the De Justitia Treaty, of Moral Theology, to the domain of slavery.

The argument of Father Ribeiro Rocha, in his onslaught against the black slavery that was in effect at that time, begins with a reference to human dignity. This onslaught is situated in the context of the ideas of the Enlightenment (Illuminism), which gave a particularly special accent to the autonomy of man and his unique value throughout the domain of Nature. In reading Father Ribeiro Rocha's appeal to the human condition, which slavery reviles, the words of Montesquieu, which abounded in intellectual circles, come to mind. Before all of these laws, there are those of nature, so called because they arise solely from the constitution of our being" (MONTESQUIEU, 1759, 216), and "as all men are created equal, it must be said that slavery is contrary to nature." Father Ribeiro Rocha states that "the greatest misfortune that can reach a rational creature in this world is that of slavery, because with it comes all of those other adjacent woes, and all of those nuisances that are contrary and repugnant to nature, and the condition of man" (ROCHA, 1992, 4).

Montesquieu, in his Spirit of Laws, sought, as we saw earlier, to eliminate the use of religious argument because he held that in serving as the basis for the law, Religion ends up taking the place of those laws and easily degenerates into despotism. Father Ribeiro Rocha, however, draws on Religion to give greater emphasis to the "Nature of Man", from which laws must spring. He states that man is "little less than an Angel; in slavery, he falls so far, which is akin to being little more than a brute" and "born to dominate, and to own, by slavery he is owned and dominated" (ROCHA, 1992, 8-20). The argument goes further when Ribeiro Rocha claims that man, in "being free, by slavery he becomes a subject." It was the categorical statement from the age of Enlightenment, that all men are, by nature, free.

Such an appeal to human dignity by Father Ribeiro Rocha moved the censor Father M. Paulo Amaro S.J., who regretted, in his words of approval, that black slaves were sold “as if there were no redeemed souls by the blood of Jesus Christ, just as yours as well [the masters].” It is from this human dignity, elevated through Baptism to the dignity of affiliation with God and fraternity in Jesus Christ, that Father Ribeiro Rocha assumes the words of the Jesuit Fernando Rebello, establishing a fundamental requirement. This requirement goes almost unnoticed, as it comes from Latin. Perhaps it was quoted in Latin on purpose, because of the unusual situation that it was in. Appealing to the Supreme Pontiff himself and to the King of Portugal, only connoisseurs of Latin would be able to understand the statement: “*Expediret maxime, non solum Summus Pontifex, sed etiam Rex Catholicus, praefatam legem favore fidei pro tota conquisitione Lusitana, quam primum ferrent, ad tollendas injurias, quae propter avaritiam fiunt in quamplurimis infidelibus in servitatem injustam redigendis*” (75). (It would be most fitting if not only the Supreme Pontiff, but also the Catholic King, enacted this aforementioned law in favor of the Faith throughout the Portuguese Conquest as soon as possible, in order to avoid the injuries that, because of greed, are produced in so many infidels that are being reduced to unjust slavery). The “aforesaid law” spoken of is that any pagan, having received “the holy Baptism, be free from slavery”.

However, such a law would involve, in practice, the abolition of black slavery! That is where Father Ribeiro Rocha makes a concession to the political and economic reality of the Colony, stating that such a provision, although attaining the aforesaid objective, “would undermine the livelihoods and continuation of trade, which is useful indeed and necessary to the Kingdom”, making such a law difficult to be established in practice (ROCHA, 1992, 49). Could it be that the author made such concessions because they were the only way to get his work published? What he says below seems contradictory to what he later argues when referring to the legitimacy of slavery, which cannot be the “price” for Africans to accept Christianity. Father Ribeiro Rocha claims that without the trade in slave rescues, it would damage “the Kingdom and achievements in the temporal and the spiritual planes, affecting the service of God and the good of souls” (ROCHA, 1992, 50). Even more paradoxically,

he concludes that "faith, which is received in baptism, makes the servant more ready and faithful in the service of his master..." (ROCHA, 1992, 62).

Montesquieu also made similar concessions, seeking to harmonize the ideal of liberation with "annuity", and in doing so, proposed enfranchisement through various forms of payment. Father Ribeiro Rocha would do something similar in his liberation project, by means of the "rescue under pledge" system. In the search for harmony between human dignity and the economic factor, Father Ribeiro Rocha seems to repeat the traditional argument, in stating that by this path of rescue "under pledge", "these miserable Gentiles brought to the lands of Christendom receive the Holy Faith and Holy Baptism with which they rid themselves of the infamous slavery of the devil" (ROCK, 1992, 119). In the argument of Father Ribeiro Rocha, baptism is a concomitant beneficial circumstance.

Despite the ambiguity between the demand for the liberation of the slave through baptism and the economic impossibility of such a law, Father Ribeiro Rocha seems to lean more towards the opinion of the Jesuit Luis Molina. He says that traders of his time would oppose such a requirement of liberation, just as they opposed it in the time of Molina, "by empowering themselves to be very holy and of praiseworthy charity to drive infidels to receive the Faith and Baptism, and walk nourished on our land" (ROCHA, 1992, 51).

The lack of internal logic in the argument of *Etiópe Resgatado*'s author leads to the hypothesis that Pombaline censorship was being imposed, in the sense of being merged with the opinion above. Soon after, Father Ribeiro Rocha appeals to the Jesuit Fernando Rebello to undo the argument in vogue, not only in the traders' world, but also in ecclesiastical ways. He quotes Father Rebello by arguing "that through injustices, God does not want the conversion of infidels... and there can be no greater iniquity than selling each of them by reduction to the Faith, and the receiving of Holy Baptism, in return for unjust and perpetual slavery" (ROCHA, 1992, 52).

Father Ribeiro Rocha resumes the argument of slavery as being repugnant to man's nature when dealing with the equality of all men. He maintains that nature constituted the slaves with the same degree of equality as the masters (ROCHA, 1992, 52). He also cites Seneca to remind the masters: "He warns that these wretches,

which fortune placed under your bondage, are slaves, but they are also men." Therefore, "look at who you call thy slave, who was born of the same luck, that you too, being the master, were born; he enjoys the same sky, the same breath and the same life you enjoy, and finally you shall have the same death that he will have too" (ROCHA, 1992, 95-96).

In this quote from Seneca, Father Ribeiro Rocha presents a much more expressive formulation of human equality than Montesquieu. And once again, he seems to undo the argument that when Religion substantiates laws, it can easily lead to despotism. That is why Father Ribeiro Rocha concludes with these words: "It only remained for him [Seneca] to say: that they have the same Father in Heaven, and had the same Redeemer, and with the price of the same blood of Jesus Christ, you, and he, were freed from the infamous bondage of Satan" (ROCHA, 1992, 96).

From the argument taken from Seneca, he goes to the testimony of the black slaves of his time, who expressed an awareness of equality, especially in light of their Christianity. He cites slaves who, on being humiliated by bosses with words that expressed their inferiority, "argue in their favor that they also have souls like the whites, and that our Lord Christ also suffered and died for them; and that in the churches, all masters and slaves share the same table" (ROCHA, 1992, 96). If Father Ribeiro Rocha, as we have said above, is a pioneer of abolitionism, he nevertheless pays the price of his temporality. The entire legal system at that time admitted the legitimacy of slavery, which, in certain circumstances, was specified by the law.

Within the field of ecclesiastical Law, slavery was accepted as part of Natural Law, the Law of the Gentiles, Roman law, certain biblical readings, the ecclesiastical praxis, and pontifical bulls, etc. They would specify a whole range of arguments legitimizing slavery. However, Father Ribeiro Rocha set those aside, limiting himself to only three legitimizing arguments that were accepted by the legal order in force. These arguments, he says, derive from "natural law and its people". Primarily, a just war, or in other words, prisoners of such wars who, instead of being killed, would be spared, although reduced to servitude. A war to legitimize slavery should have the legal and moral character of "fairness", as specified by law, but it should also be "public and true", involving the rulers of the people in conflict.

Secondly, punishment for serious crime and "proportionate to the penalty of deprivation of liberty" was also a legal basis for slavery. And, thirdly, the contract of sale, which he thus specifies as: "That, to whom his father, for brief indigence and extreme need, sold, for lack of another remedy, to sustain the life-breaths that the violence of hunger was finalizing" (ROCHA, 1992, 104-105). Limiting himself to merely these three "righteous titles", Father Ribeiro Rocha leaves aside other legal arguments in vogue, such as the need of the common good, the right to property, the slave origin, and the right to selling oneself, etc. The three titles to which he is confined are, in short, the deprivation of liberty instead of the inevitable deprivation of life. It is only life that would be a greater good than freedom. The famous religious argument, so much in vogue since the bull of Nicholas V "Romanus Pontifex" (1454), in which becoming a Christian was a greater good in justifying the enslavement of Gentiles, is not accepted by Father Ribeiro Rocha as a legitimating argument; he only tolerates it as a consequence of the bondage of heathen Africans by European Christians.

### **Illegitimacy of slavery in force**

It is a categorical affirmation by Father Ribeiro Rocha that slavery, such as it existed in Brazilian reality, is illegitimate, because the legal grounds that would legitimize it did not materialize. It was not, therefore, from "just wars", but simple "assaults and acts of piracy", since "the thousands of Black Africans [were] barbarically captured by their own countrymen, for theft, for piracy, for falsehoods for scams, and by other similar methods..." This reality is so commonplace that, in case of doubt about whether certain slaves were "well captured", the presumption should be of the injustice of such slavery (ROCHA, 1992, p.intro). This injustice was so much greater when the receiving of Baptism was intended to be done "in exchange for unjust and perpetual slavery" (ROCHA, 1992, 38).

Faced with this finding, Father Ribeiro Rocha's demand is clear: the stolen freedom of the black Africans must be restored. He applies, in this case, the treaty of Moral Theology, De Justitia, with regard to the duty of restitution, vulgarly oriented to



things and monetary values. He also applies the duty of restitution to "misused freedom". And he continues to specify, by the prevailing moral casuistry, the various forms of restitution. He also demands compensation for the damage caused by the theft of the liberty of black Africans. In these demands for restitution, he establishes a thorough distinction between the various classes of slave owners: those of "bad faith", those "in doubt", those of "good faith" and those in a "state of ignorance". Finally, he also makes a thorough distinction between traffickers, sellers and buyers, in addition to owners (ROCHA, 1992.52-53).

The highly significant thesis that Father Ribeiro Rocha establishes is in denying the legitimacy of the principle "fructus sequitur ventrem" (the fruit follows the womb); in other words, the son of a slave is a slave. He categorically denies that slavery can be transmitted from mother to child, and explicitly states that the fact that, for the slaves, "being female, transfuses slavery to all their descendants" is a legal absurdity (ROCK, 1992.27-28). Hence, the demands for restituting misused liberty involve the return of the "children born of slaves," even though the children were born when the master or owner was in ignorance and good faith (ROCHA, 1992, 29-30).

Father Ribeiro Rocha justifies his thesis, stating that "the fruits of the slaves are their services and not their children" (ROCHA, 1992, p.intro). He puts this argument in a real context in which the boss has the "pledge" and not the "domain". In this context, "being slaves, their children are born innocent and free of all subjection" (ROCHA, 1992, 46). The author of *Etíope Resgatado*, however, makes a certain practical concession; in other words, he admits that "they continue [the sons of slavery] serving and obeying their patrons (!), until they are fourteen or fifteen years old; not by slavery nor pledge and retention, but only by reward and gratification from the benefit of creation and education, which they received" (ROCHA, 1992, 48).

If the children of slaves learn some trade under the tutelage of their "patron", they will remain under tutelage until 25 years of age as a reward. The author of *Etíope Resgatado* recalls, in this argument, the principle in force at that time, which "just as for the Father, and the Mother, they are meant not only for those who come via natural generation, but also those who come civically by means of possession; and therefore, and

likewise, for children not only meaning those generated, but also those owned" (ROCHA, 1992, 53).

Would Father Ribeiro Rocha have been influenced by the reading of Montesquieu, who categorically denies the legal principle ("fructus sequitur ventrem") of legitimate slavery for the children of slaves? Indeed, Portuguese legislation would better specify this principle of the transfusion of slavery, via females, in the Charter of January 16, 1775. It would determine that perpetuity in the transfusion of slavery was unacceptable, when that "infamy" was not determined as punishment for the most heinous crimes, such as those against Divine and Human Majesty. Therefore, the King would determine that the "infamy of slavery" could not be passed to grandchildren. And as regards the said Charter, it was the "law of the free womb" for Portugal, a century before it was applied in Brazil (SILVA, 1830, 639-640). The humanitarian sentiment that lurked behind this Charter, applied only in Portugal, would, unfortunately, not resound in Brazilian reality.

### **Premises of greater liberation**

There is a lack of logic between the libertarian premises brought about by Father Ribeiro Rocha and the conclusion to which he arrives. One would hope for much more than the arguments he uses to condemn the slavery that was in force at that time, which he characterized as "piracy and theft"... One would also expect a much braver conclusion from someone who, at the outset, declared slavery incompatible with human dignity. However, one cannot forget the temporality in which Father Ribeiro Rocha was situated. Let us summarize these libertarian premises, made by the author of "Étíope Resgatado":

a) Slavery goes against the dignity of the human being, who, by its Creator, was made Lord of all creation and placed a little lower than the angels; freedom is a typical expression of this dignity, as Rocha exhibits in the introductory argument. While acknowledging, in some exceptional cases, the legitimacy of the institution of slavery, the slavery existing among us does not satisfy the basic requirements for its legitimacy, and is

therefore illegal. It is reduced to a manifest encroachment on the freedom of others [p. 3-4 of Etíope].

b) The current law does not entitle the perpetuity of slavery by means of childbirth; that is, through the female. Therefore, in the slavery that is practiced among us, such infamy of servitude would not apply. In short, this transfusion has no foundation of legitimacy in the nature of things [p.75].

c) Given these assumptions, the slavery existing in Brazil should be treated as crimes of robbery, theft and piracy. There is no other description for slavery such as it is processed, beginning with its origins in Africa [p. 15].

d) When you take into account the Christian order, in which our slavery of blacks in Brazil is inserted, one can say that it goes against the universal redemption of Jesus Christ. In the Christian community, there should be no barriers to differentiate between slaves and masters [p. 64-65 and p.72-73].

e) The slavery that exists in Brazil achieves what the De Justitia treaties qualify as being a negotiation with an alien thing, or in other words, with the freedom of blacks [p.15].

f) The traffickers and slave traders do not have any excuses for being of "good faith"; except for one case or another of "total and invincible ignorance", they are, in their entirety, of "bad faith" [p, 13.61 -62].

g) Once this "bad faith" has been admitted, it can be said that such traffickers and traders are committing a deadly sin and in a state of condemnation [p.12-13].

h) Traffickers and traders are obliged, under the threat of grievous sin, to refrain from this slave trade, since it makes it impossible to ascertain the legitimacy of such enslavement [p. 21].

i) Furthermore, traders have the serious obligation of restoring the freedom which was unjustly usurped from the blacks of Africa. Such restitution would involve not only the freedom usurped from blacks, but also that of "the children of slaves" [p. 17-18, 56-57 and 61].

j) The simple restitution of stolen freedom is not enough, because traffickers and dealers have the equally grave obligation to compensate for the damages caused to the unjustly enslaved blacks [p. 17-18].

k) Finally, the actual buyers of slaves, whether they are in “bad faith” as regards the legitimacy of such enslavement, or whether they are in doubt about its righteousness, also have a grave obligation to restore freedom to those slaves thus bought [p.23].

All of these principles established by Father Ribeiro Rocha were nothing more or nothing less than the principles of De Justitia, the treaty of Moral Theology, in relation to the theft and robbery of material things, which applied to the slaves unjustly robbed of their freedom. Hence, the danger of the argument raised by Father Ribeiro Rocha. No one could accuse him of heretical and subversive ideas. His argument was based not on quotes from Montesquieu or other authors considered "subversive", but rather from the authors unquestionably accepted in the realms of Theology and Law, such as Father Luiz Molina S.J., Father Fernando Rebello S.J., Mendes Arouca, João Azor and so many others. The books of these authors had all been approved by governmental and ecclesiastical censors, and had the weight of authority at the University of Coimbra. If any author beyond these was quoted, it was Seneca who rightly escaped any taint of subversion.

### **Rescue of the slaves under pledge**

The Ribeiro Rocha of the aforementioned bold premises does not seem to be the same as the one from the conclusion that follows. There is, at first glance, the impression of illogical or grafted concessions in response to pressure from censors, in order to get his book published. In any case, Father Ribeiro Rocha should be situated in his own time, namely, the mid-18th century. The entire legal system of the time admitted the legitimacy of the institution of slavery. Moreover, it had the economic context of the Colony under its watch, and it was therefore simply inadmissible to imagine agriculture and mining without slave labor. Furthermore, slave labor in itself was a very lucrative commodity for trade within the colony.

The “heretical and subversive” authors of the era, who had absolutely denied the

legitimacy of slavery, could not be invoked because they made the publication of his thesis impossible. In addition, relying on “subversive” authors was tantamount to incurring the crime of subversion. It is within this context that he draws a conclusion, where he seeks to align his bold premises with a seemingly untouchable reality. There is no denying that he has made concessions, yet their conclusion, combined with the premises raised, are revolutionary for the time. Indeed, they shook the legal foundations of slavery and seriously threatened to decrease the slave trade. He establishes the following device to harmonize the liberation of the blacks with the slave rescue trade. He admits that, given the premises laid out, “one cannot trade, have and own these Black Africans by way of permutation, or by purchase through the acquisition of dominion”. However, he also admits the possibility of a rescue [purchase] in view of a gradual liberation. For this rescue or redemption, only the right of pledge and retention, not dominion, would be acquired. Such a rescue was directed towards liberation, as from a certain period of service or purchase of freedom with money [p. 68-69 and 75].

As for the *length of service to compensate by working for one’s rescue*, Father Ribeiro Rocha, citing Roman law, writes that this dictated five years. However, he comments that “it is not five years, which this law [Roman] determined in the circumstances of those times and places in the Roman Empire, where the natives were white, and their services outstanding” [p.80]. He maintains that this period of service “can reach twenty years, but cannot exceed it” [p.98].

Such a period of time in service involves a concession to the slave trade, as he adds that “not being thus does not make it desirable to give a hundred thousand reis, and more than a hundred thousand reis, as is commonly given for each one” [p. 99-100]. It is actually not a very logical concession, since he writes that the wage (daily payment) of a mason, a carpenter and a free laborer was a penny, i.e. one hundred reis [p. 310-311]. And he arbitrates this price based on the daily work of the slave, for “competent” gratification, which “you must put in the hands, until the end of their term of service” [p. 309-311]. However, 100 reis being the daily rate of a slave placed at the level of other corresponding workers, their annual earnings, not counting Sundays, would be more than 30 thousand reis. And, therefore, twenty years of service would be 600 thousand reis. In other words, three years and a few months were enough to make up the aforementioned sum of 100

thousand reis. With deductions, it is true, for customs duties and various taxes, the losses suffered by slave deaths, the profits of traffickers and dealers, travel costs, sustenance of the slave by their master, the teaching of trades to slaves - even with all of these discounts, the 20 years still constitute a concession to the slave trade.

Another method of freeing the slaves was the purchase of emancipation through a certain sum of money, which Ribeiro Rocha does not specify, seeming to leave out what the current laws conceded as a term of reference. This purchase of emancipation, providing the slave with the corresponding money, was a sacred right that the boss had to respect and observe. He affirms: "All of the time, they offer their value at the price of their rescue; if you must accept and give freedom; and with this their owners may, when gathered together, be compelled by justice" [p.75-76]. What, however, seems of greater importance to us is the fact that by the expedient of Father Ribeiro Rocha, the slave could become the direct author of his own freedom. This would not be granted as a favor, but rather as a requirement of justice. The slave becomes the holder of a right that puts them almost at the level of those who were classified at that time as "journeymen".

### **Special obligations of the bosses**

Father Ribeiro Rocha establishes three basic obligations for the boss when freeing slaves: do not free the slaves empty-handed, do not throw the sick or elderly slave to abandonment, and declare the slaves free upon the death of the boss. After the term of service required for their liberation, "we give them some money, or something else, according to our capabilities, so they do not leave our house totally empty handed..." [p.305]. This "gratification", as Father Ribeiro Rocha calls it, derives from a duty of justice, because he compares it with the "salary" of free workers: "just as one cannot dismiss the journeyman, without paying him the deserved wage at the end of their work, so one should not dismiss the slave at the end of their servitude, without putting in their hands the proper acknowledgment." [p.309 ]

A special duty that binds the bosses is that of not throwing, on the bitter and helpless streets, "*the old and sick slaves who complete their term of service.*" It is a duty and not just a piece of advice: "And if the slave finds himself sick, or is already old ... all the more reason we should save them." [p.315] As a lawyer, he appeals more to the

demands of justice than to the counsel of charity. Finally, there is a very special recommendation regarding the freeing of slaves: “do not leave the good slave, who was faithful to you, completely free upon your death [the boss’s death]; this would be, in addition to the obligation of charity, also lacking the obligations of justice, not paying him what he is strictly owed, and defrauding him of what, by law, he contends.” [p.323] This duty also extends to any “of those who serve him in a common and ordinary way”, as an act of benevolence, kindness and brotherly love, “which is owed to any neighbour” [p.322-323].

### **Ribeiro Rocha, an “abolitionist” or a “reformer”?**

Any historical reading is subject to the historian’s “place” and his personal perspective. I situate myself in the same “place” as Paulo Suess’s historical reading; in other words, in the “place” of the oppressed and crushed. However, our reading, as already stated above, has a fundamental difference. It is that Paul Suess does a perfectionist, or rather, rational reading in which the basic requirement for *Etíope Resgatado* to be considered “abolitionist” is total perfection. Since Ribeiro Rocha made concessions to the slave system of the time, Suess qualifies it simply as “reformist”.

### **The “reformist” reading of Paulo Suess**

The re-issue of *Etíope Resgatado* (Ed. Vozes, Petrópolis, 1992), as described earlier, is due to Paulo Suess, and is, incidentally, the first re-issue of this work since its princeps edition (Lisboa, 1758). He writes that he was able to locate only five copies of this book all over the world in: the British Library (London), the *Brasilienbibliothek* (Stuttgart, Germany), the *Biblioteca Nacional de Lisboa* (Lisbon) (2 copies) and the *Biblioteca Nacional do Rio de Janeiro* (Brazil). Indeed, the latter was the only copy he could find throughout Brazil (p. VIII). Suess mentions, however, that in the past, there were a few other copies in the country: in the Monastery of S. Benedict and in the Convent of St. Anthony in Rio de Janeiro, as well as a copy at the Imperial Library (p.

XX). In the critical Introduction to the aforementioned re-issue, Suess categorically rejects the attribution of “abolitionist” bestowed upon Ribeiro Rocha. For him, the author of *Etíope Resgatado* was nothing more than a simple “reformist”. The classification of Ribeiro Rocha as “revolutionary” was made by “many who had no opportunity to read the book and let themselves be seduced by its programmatic title” (p. XI-XII). Contrary to this abolitionist myth, “*Etíope Resgatado* did not represent a cry of conscience and Manuel Ribeiro Rocha was no prophet” (p. XLII). He makes an exception for Ronaldo Vainfas, who “is probably one of the few that has gone into the text” and denies Ribeiro Rocha the classification of “abolitionist” (p. XXV). Suess goes on to parade his arguments in defense of this thesis:

a) Ribeiro Rocha presents a “proposal for temporary slavery that guarantees the same profits and, therefore, does not scare the lords of “Casa Grande” (p. XI).

b) His work merely adds “a legal basis for a legal title” (Ibid.).

c) The “liberation” proclaimed by *Etíope Resgatado* “is preceded by 20 years of work which ensures, through the profit of the master, the continuity of the salvationist work of slavery” (p. XII). Freeing the slaves after 20 years instead of 5 years of service is, for the bosses, equivalent to the profits of 3 slaves with this concession (p. XLV). This liberation, as suggested by Rocha, is within the category of sexagenarian law, which, in other words, gives it the advantage of escaping responsibility for the old slaves (p. XLVI).

d) Ribeiro Rocha states that the “slavery of most of the captives is unjust”, but soon after, he deflates such a statement “for legal and opportunistic fallacies” (p. XII).

e) The free womb law itself, proposed by Rocha (I, 57), was not accompanied by the requirement to “ban the black slave trade” (p. XIII).

f) The author of *Etíope Resgatado* makes a legal requirement for releasing the baptized slaves but, in spite of this, the author tries to show the internal court the validity of negotiating ownership of the captive” (p. XIV).

g) The expedient for changing slavery as a system of service under pledge involves a whole series of opportunistic arguments. “The buyer only needs to change the intention.”



Instead of the purpose of “buying and acquiring dominion” of slaves, the merchant simply changes the intent to the acquisition and retention of captives “in his service and in earnest” (p. XIV).

h) The only transformation that Rocha introduces is “changing the unjust title of domain to the just title of pledge, and changing perpetual slavery to temporal servitude” (p. XV).

i) Suess goes further, taking on Ribeiro Rocha’s intention in writing *Etíope Resgatado*: “The author’s purpose was not to write a manual to teach slaves about the conquest of their liberty, but to write a catechism of commiseration.” (p. XVIII)

j) Given these premises, Paulo Suess condemns it: *Etíope Resgatado* was not a revolutionary work “nor was its author a prophet” (p. XIX). Rocha does not propose the abolition of the black slave trade, but merely some “middle road”. His flag of rescue “was an ideological weapon, which had already been tried for centuries, to declare slavery a humanitarian task, a service to God and to the King” (p. XXVI). Rocha, with an entire legal apparatus to substantiate his thesis, had only the pretense of “proving with scholastic erudition and legal logic” (p. XXVII).

k) Paulo Suess goes on to demolish the entire biblical, patristic, theological and legal foundation of *Etíope Resgatado*. Quotations from Scripture show that “Revelation, tradition and reason, the three classical sources of Christian theology, are not innocent”; they can degenerate into “ideology of the ruling classes” (p. XXVIII). Rocha’s attitude, reassuring the slave masters, does not represent “biblical ethics and its option for the poor and others” (p. XXIX). Suess adds: “the good treatment of the slave as a long-term amortization is within business logic and cannot be confused with Christian ethics.” (Ibid.) As regards the quotation of the Church Priests, it “is a scholastic exercise in erudition and legitimacy.”

l) Moreover, Rocha manipulates his sources. “Ribeiro Rocha’s argument does not emerge from his sources. The sources are opportunistically in the service of their arguments.” (Ibid.) Suess has listed more than 100 authors’ names cited by Rocha.

m) A historical event that draws Suess in favor of his thesis is the fact of Ribeiro Rocha having “silenced” so many defenders of the oppressed slaves’ cause (Ibid.). He adds: “the

significant absences of those that did not conform to slavery deserves a separate paper on prophecy and ideology in the slave regime” (p. XXX).

n) He does not see, in *Etíope Resgatado*'s rarity, a sign of the Pombaline attitude of “ostracism” from Ribeiro Rocha's work, but he attributes this rarity to the possible fact that “all, or most of the editing, was transported to Brazil, where they were especially interested (p. XX). He writes that, in Lisbon, he found no mention of Rocha in the sections of the Royal Censorial Court (Real Mesa Censória) and the High Court of Justice (Desembargo do Paço). However, no conclusions are taken from this about a possible governmental attitude of “silencing” such a work.

o) To him, *Etíope Resgatado* “did not actually exert any impact on public opinion or in government media” (p. XXIV). As well, “in the middle of the 18th century, no prophetic voice was heard in defense of black slaves, which complicated the relationship between the temporal and spiritual powers of Brazil (p. XLII).

p) Suess concludes that the idea of Ribeiro Rocha as having been an “abolitionist” was a myth that has endured for a long time “against the text itself.” (p. XXIV) Quoting J. Hoeffner, when referring to Molina, Suess also applies his words to Rocha, who regretted the plight of the slaves, yet sought to reassure the consciences of their masters: “We are witnessing a very dubious capitulation in the face of the weight of historical facts.” (XXIX) He concludes: “In a discourse that is both idealistic and practical, Ribeiro Rocha tried to expand the space of legality and outlined the horizons of a possible consciousness within the colonial and slavery-based system” (p. XLVII).

### **Why an “abolitionist” reading of *Etíope resgatado*?**

Let us remember that our “abolitionist” reading of *Etíope Resgatado* lies in the vision of “an ideal embryo”, which carries within itself the seed of its planning. Incidentally, this diversity in the readings of Ribeiro Rocha's work reminds me of a story of two men who were drinking beer in a bar. Their two glasses were filled half way. The first man looked at his glass and lamented that it “was already half empty”. The other replied: It's nothing of the kind, “the glass is half full”. There were two different readings

of the same reality. What distinguished the two was “the perspective” under which they were viewed. The “reformist” reading, carried out from an analysis of Ribeiro Rocha's work, is based on the exact same text by the “abolitionist”. What is different about them is the criteria adopted.

Now, we come to our “abolitionist” conclusion. Throughout the article, we have demonstrated the reasons behind our “libertarian” reading. Likewise, we have also shown the other side of Ribeiro Rocha's work. We conclude that the author of *Etíope Resgatado* made a series of “tactical concessions” so that his work could get past Pombaline government censorship, as well as become “viable”. Such concessions, within that hypothesis, did not have the intention of encouraging slave traders in their ambition for profits by reassuring their consciences and perpetuating the legal regime of slavery.

In contrast to Paulo Suess, we are of the opinion that Ribeiro Rocha had a “revolutionary” attitude in his postulating, supported by the Portuguese Jesuit P. Fernando Rebello: “it would be of the utmost convenience if not only the supreme pontiff but also the Catholic King proposed such a law [of freeing baptized slaves] as quickly as possible for the faith throughout the entire Lusitanian jurisdiction, in order to prevent the injustices that, due to avarice, are committed against large numbers of infidels in being reduced to slavery.” (*Etíope*, p. 49) This attitude can be seen as “revolutionary” because, for the time, it was considered offensive to the Royal Majesty and to the untouchability of His Holiness the Pope. It was peacefully admitted that no one judges the King, much less the Supreme Pontiff. The laws proceeded from the “most pious intentions” of Our Lord the King, or the wise and holy intentions of His Holiness. It was as if Ribeiro Rocha were declaring an omission from the supreme legislators - the King our Lord and His Holiness the Pope - in suggesting that they take steps to “impede the injustices” of the slave trade. And above all, when, “morally speaking, there is no other way of shortcutting all those excesses in this material” (*Ibid.*).

Faced with the “moral impossibility” of these two supreme legislators offering such a law and the impracticality of such an abolition, Rocha would undertake the expedient of “service under pledge”, which we have already spoken about in detail. Was this attitude a capitulation? In some ways, yes. A capitulation faced with “an impossible ideal”. But his capitulation did not involve the attitude of laying down arms. Rather, it

bypassed the situation in search of a “possible” horizon of hope. His ultimate goal would not be “the perpetuation of the slave regime”, but rather the “liberation” of black slaves.

Furthermore, in support of abolishing the institute of slavery by the womb, Ribeiro Rocha proposed a way to limit the perpetuation of that regime. The author of *Etíope Resgatado* does not plead, properly, for the enactment of a law for the “free womb”, because, for him, the practice of “slavery by the womb” had no sustainable legal basis. What he advocates is the recognition of this legal nonsense: childbirth is not the fruit of the slaves; the legal fruit is their service, and not their children. The proclamation of the legal invalidity of the law for slavery by the womb was also a “revolutionary” attitude by Ribeiro Rocha. He did not present an “alibi” to replace the principle that “the fruit follows the womb” (*fructus sequitur ventrem*). Similarly, his proposal to transform the system of slavery into a contract of employment was a revolutionary and innovative attitude. In the “contract of employment” system, the slave, in a way, lost his status as a slave to become a partner in an employment contract with his boss. The slave would no longer be the “property” of his master, but a “contracted party”. And that contract would not be simply governed at the master's discretion, but through the precepts of the laws governing such contracts. Moreover, the limitation of the term of service would lead to an end, which was “freedom”.

The bosses, without any doubt, could manipulate this law in their favor. However, wanting to conclude that the law itself was a decoy is to go beyond what the premises permit. Indeed, Ribeiro Rocha, in his expedient for “rescue under pledge”, made concessions to the slave system. Even allowing for such concessions, however, we have shown that “rescue under pledge” involves a “revolution in the slavery-based system”, changing the very nature of slavery itself.

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