

## IMPRESSIONS OF LUIS DE MOLINA ABOUT THE TRADE OF AFRICAN SLAVES

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### 1. Introduction

The slavery of blacks is a recurring theme. New publications on the subject come out every year, always investigating and condemning the practices related to the slave trade<sup>1</sup>. Much attention is given to this matter, certainly due in part to the high esteem that mankind has for its freedom. However, contrary to any popular belief, the condemnation of the slave trades not the fruit of modernity. Questions and comments on its legality and morality regularly appeared in works dating from the beginning of the African slave trade in the New World<sup>2</sup>.

Slavery and its legal aspects have been discussed for a long time. Without regressing so far, Francisco de Victoria was an influential scholar who dealt, among other issues, with property and the right to defend it. Victoria strongly influenced many scholars who succeeded him. Regarding the enslavement of Indians, their comments concerned the legality of taking slaves in just wars. Among the students influenced by Victoria, we outline here Luis de Molina, who somehow had considerations that were different from those of his teacher<sup>3</sup>. As such, he analyzed the reasons that supported the existence of slavery, considering more specifically the trade of African slaves under the seal of the State and the Church.

Molina wrote in the late sixteenth century, a few decades after the start of the trade of African slaves in the New World. His work *De iustitia et iure*<sup>4</sup>, arranged in five books, discusses considerations on various as-

<sup>1</sup> Cfr. Leslie B. Rout, Jr., *The African Experience in Spanish America*, Cambridge University Press, London, 1976, p. 404; Robin Blackburn, *The Making of New World Slavery: From Baroque to Modern, 1492-1800*, Verso, Guildford, 1997, p. 602; A. Saunders, *A Social History of Black Slaves and Freemen in Portugal, 1441-1555*, Cambridge University Press, Cambridge, 2010, p. 283.

<sup>2</sup> Cfr. Jesús María García Añoveros, "Luis de Molina y la esclavitud de los negros africanos en el siglo XVI. Principios doctrinales y conclusiones", *Revista de Indias* 60 (2000) 307-329.

<sup>3</sup> Cfr. António Manuel Hespanha, "Luis de Molina e a escravização dos Negros", *Análise Social* 35 (2001) 937-960.

<sup>4</sup> Cfr. Luis de Molina, *De iustitia et iure*, Apud Sessas, Venetiis, 1611.

pects of law. This study analyzes *disputationes* 30-40, presented in the second half of the first book, which refers to the legality of slavery and the slave trade in order to analyze how this great philosopher understood the slave trade from both legal and moral points of view.

Francisco de Vitoria and his student Molina express differences in opinion regarding the characteristics of property and the right to it. According to Vitoria, as long as there is no loss for any local inhabitants, any foreigner should have free access to the lands of other peoples. Not only could they also use the lands, harbors and rivers to move around, as they are common to all, but they could settle in these provinces, with the right to negotiate with all buying and selling interest. Moreover, if some indigenous peoples or foreigners use the rivers for fishing or mining gold and silver in public places, so they could not stop others from doing the same. If anyone tried to prevent others from also exploring the region, they would be generating a reason for a just war<sup>5</sup>.

Molina disagrees with Vitoria:

It seems like the opposite. In fact, all this is lawful for anyone by the people's rights as long as it is not prohibited by local inhabitants and, moreover, only to the extent that the foreigner seriously needs to use those things. In this case, it cannot be legally prohibited to extract them, as this is both postulated by the law of charity and by the principle that the division of things cannot prevent one who greatly lacks one thing from using it, even against the will of the owner<sup>6</sup>.

For the author, it is permissible that the rulers of a given community prohibit foreigners from using all things native to the locale and common to all who are part of it. Also, Molina adds, foreigners cannot establish any trade against the wishes of the locals, and this position would not cause injury enough to motivate just war

Molina also defends that any nation can close its trade to a foreigner, even if it accepts negotiating with the other group:

If a province grants to foreigners some of their common things, certainly it has not lost its freedom, so that it cannot deny the same to other foreigners. It can grant to whomever it wants the righteous use of their things and deny it to others<sup>7</sup>.

The only exception to this right of property defended by Molina is for the right to evangelize in all earth, which is superior to the interest of the leaders of any nation. Thus, Molina argues that it is permissible, even through war, to force nations to allow the gospel to be professed, even though they would prefer to not accept it. If the mission of foreigners is to achieve this objective, then it is even lawful to exercise some trade with that province, even against their will. However, it is preferable to send a

<sup>5</sup> Id., *ibid.*, II, 105, col. 385, B.

<sup>6</sup> *Ibid.*, III, 105, col. 386, B.

<sup>7</sup> *Ibid.*

small delegation, composed only of missionaries, to negotiate with the locals entering the territory in peace, than to achieve it by force<sup>8</sup>.

## 2. Just Causes of Slavery

The arguments Molina uses to justify the existence of slavery are based on both Roman and Canon law as the considerations that Aristotle makes in his *Politics*<sup>9</sup>. However, Molina does not write his considerations about the perspective of natural slavery; he analyzes its causes and characteristics from the legal, moral and stereological points of view. That way, when someone deemed unable to support himself, either by physical or mental weakness, decides to serve another, this individual should not be considered a slave, because everyone should help those who are less able and these people, therefore, should reciprocate with respect and obedience. Yet for Molina, in this case, they do not become the property of others<sup>10</sup>.

We can classify the just causes for slavery indicated by Molina in four types: (1) Slavery due to just war (*ius belli*), (2) slavery as a punishment chosen over the death penalty (*propter delictum*), (3) slavery by sale of one's own or family's freedom (*emptio et venditio*) and (4) slavery by birth (*nativitatis conditio*). Molina describes each one of those causes, starting with slavery by just war.

He describes just war as that which fulfills the conditions required by law: declared by the prince or recognized authority, motivated by a just cause<sup>11</sup> and analyzed with right reason<sup>12</sup>. Therefore, all who capture a prisoner have the right to enslave him or her, exchanging his or her death for perpetual servitude (*morte in perpetuam servitutem commuta*) except for Christians captured by other Christians (*Christianus iure belli non sit servuus alterius Christiani*)<sup>13</sup>, since charity is the duty of these to one another, even if they are guilty<sup>14</sup>. From this understanding of just war Molina explains the two terminologies that he uses to denominate slaves: 'servus' and 'mancipium'. According to the author, 'servus' is a derivation

<sup>8</sup> Ibid., II, 105, col. 387, B.

<sup>9</sup> Cfr. Amândio A. Coxito, "Luis de Molina e a escravatura", *Revista Filosófica de Coimbra* 15 (1999) 117-136.

<sup>10</sup> Cfr. Luis de Molina, op. cit., II, 32, col. 143.

<sup>11</sup> Molina indicates six just causes: (1) recovering from unjust invasion, (2) suppressing rebellious subjects, (3) due to grave insult to authority, (4) for military support to the enemy, (5) for supporting criminals, (6) by breaching agreements between authorities. Cfr. Mathias Kaufmann, "Slavery Between Law, Morality, and Economy", in Alexander Aichele and Mathias Kaufmann (eds.), *A Companion to Luis de Molina*, Brill, Leiden, 2013, p. 544.

<sup>12</sup> Cfr. Jesús María García Añoveros, "Luis de Molina y la esclavitud de los negros africanos en el siglo XVI. Principios doctrinales y conclusiones", op. cit., p. 311.

<sup>13</sup> Cfr. Luis de Molina, op. cit., II, 33, col. 144.

<sup>14</sup> Id., ibid., II, 120, col. 423, C.

of 'servando' (i.e.: 'saving'), indicating situations where a commander chooses to save the life of an enemy, turning his death into eternal servitude. And 'mancipium' would be derived from 'manu capta' (i.e.: 'hands caught') according to Molina, explaining that any life form in bondage is better than death (*quatenus perpetuantes servitus minus malum illis est quam privari vita*)<sup>15</sup>.

As for slavery in accordance with a condemnation for an offense, Molina notes the fact that the offense for which there was a conviction should be very serious. This penalty could only be applied to the criminals, never to their offspring. In this case, when someone was sentenced to death in a fair manner, anyone could offer some value for the criminal and have him as a legal slave. As Molina explains, "no one is bound by the law of justice or charity to save, in these cases, someone from death. So it is fair to ask a price for the rescue, including the exchange of death for enslavement"<sup>16</sup>. But if the death sentence were unjust, it would be the duty of all to do everything possible to save the individual, in accordance with the charity law. If there were no other way to save the life of the innocent individual, he could be bought as a slave, but he should be aware that after the purchase he should be released or at least allowed to buy back his freedom. Except for the Christian case, these people could not be enslaved as a penal sentence, or forced to return any amount related to their purchase.

Another just cause of slavery, in Molina's opinion, was the selling of an individual or his family members due to imminent death by sickness or hunger. Molina states that these cases were very rare in Africa but routine in Asia. However, it was just to acquire a slave in virtue of his misery or his family, offering in this way a better life than that which he had previously.

The author also notes that, first, help should be offered to the needy by only accepting the purchase in cases where there is no other way to improve their situation, and, also, the amount to be paid for them should be fair and no one should take advantage of another's necessity, otherwise they would be sinning mortally and have a duty to liberate all. Molina points out that if a child is offered for a very low value, which makes the merchant suspicious of his origin, he should not purchase the child or he should buy him and immediately release him. At least he should be required to work only to compensate the buyer the amount that was paid for him and then be granted this freedom.

Additionally, slaves in fair conditions were those who were born from the womb of slave women, as the child follows the mother's condition (*qui apartus sequitur ventrem*). However, while Molina does not highlight these cases (and avoids going into details, as in some nations it was necessary for both parents to be slaves for their offspring to also be bound),

<sup>15</sup> Ibid., II, 32, col. 143, B.

<sup>16</sup> Ibid., II, 33, col. 148, D.

he only notes that so it should be according to the law of each nation and indicates that that was the rule in Africa<sup>17</sup>

### 3. Legal Conditions of Slavery Titles

For Molina, the right to slave ownership and the regulation of their trade should not worry those interested in purchasing slaves from the Portuguese merchants. As these are already in the kingdom, it is the responsibility of the prince and his ministers to ensure that all products sold comply with the law<sup>18</sup>. Molina makes it clear that this rule only applies to those who buy slaves from another possessor or merchants, because it is such a duty to verify the validity of the slavery title before offering them on the market. However, if the possessor of a slave discovers from sources other than the slave him/herself (as he/she would have a good reason to lie), that this individual has been unjustly subjected to slavery, then the possessor is obliged to release the slave, no matter how much was paid for him/her, and must even pay for the slave's work performed thus far. If the slave has already died, then the possessor must deliver his/her restitution to the descendants<sup>19</sup>. Molina makes clear that, if there is any indication of error in the enslavement of a slave, then the owner has a duty to seek the truth and is not permitted to ignore any evidence<sup>20</sup>.

The scholar warns that the possessor does not have ownership over the life of the slave (unlike his other possessions such as animals, for example), and as with the integrity of his/her limbs, does not have ownership of his/her physical and spiritual health, since that ownership belongs to God alone (*cuius dominium sibi soli Deus reseruat*)<sup>21</sup>.

Therefore, Molina warns that those who mistreat their slaves should reward them, because they are as much men as our neighbors<sup>22</sup>. Similarly, slaves cannot be subjected to forced labor, nor can they go hungry or be punished unjustly. If these limits are exceeded by a slave owner, then these should be reported by the slaves themselves to the authorities and it is up to them to determine the proper punishment for the owners<sup>23</sup>.

There are cases where the running away of slaves is permitted, says Molina, as in cases where they have been forced by their master to commit a mortal sin, so the slave not only has the right to run away, but also cannot be punished if captured<sup>24</sup>. Also, if any slave escapes and reports

<sup>17</sup> Ibid., II, 33, col. 150, D.

<sup>18</sup> Ibid., II, 36, col. 176, D.

<sup>19</sup> Ibid., II, 36, col. 177, B.

<sup>20</sup> Ibid., II, 36, col. 178, B.

<sup>21</sup> Ibid., II, 38, col. 183, A.

<sup>22</sup> Ibid., II, 38, col. 184, B.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid., II, 38, col. 184, A.

sexual abuse by his/her master, then she can be released by the church. Otherwise, Molina explains that if any slave who had been subjected to slavery through just war flees and is caught, he can be punished severely, even through the amputation of a foot<sup>25</sup>, as there would not have been a reason to, in just war, exchange his life for slavery.

As to the circumstances that may grant freedom to slaves, Molina highlights the case of owners condemned by the Inquisition, writing a *disputatio*<sup>26</sup> especially for these cases, as there was great concern about that in Spain while Molina was writing. Thus, all slaves belonging to a convicted owner should have their freedom granted. Slaves freed by their own possessors, those abandoned by their owners, those who were refused proper medical care, and those which had suffered sexual abuse should also be recognized as free, and, when formalizing the marriage to a slave or recognizing a slave as a child, these cases should also be recognized as free<sup>27</sup>.

#### 4. Reports from the African Context

The context of life in Africa is described in great detail by Molina. He has great knowledge of geography and local culture, mentions that he sought to hear many Christians who were there to express their observations more properly and thus could demonstrate the reality that the Portuguese found in Africa. He points out the details of the situation of *aethiopes* living both in Guinea Superior, as was named the area above the island of St. Thomas, and in the Lower Guinea, the area below it.

As soon as the Portuguese conquered the islands of Cape Verde, they started contacting the inhabitants of the African coast and immediately established trade, basically consisting of metals and precious stones. However, not long after, the negotiations involved slaves and it did not take long for this to become the main trade for both the Portuguese and for the *aethiopes*.

Of all the kingdoms discovered by the Portuguese, they called the most prominent one as Angola, as much for its territorial size, as for its economic characteristics. The name Angola was established due to the name of the highest authority of that place, Inene Angola, who controlled all the territory divided into regions called 'mirindas', aided by leaders identified as 'sobas'<sup>28</sup>.

<sup>25</sup> Ibid., II, 37, col. 180, B.

<sup>26</sup> Ibid., 40, col. 188, B: *Disputatio XL—Utrum Christiana mancipia eorum qui in tribunali inquisitionis de crimine haereseos aut apostasiae a fide damnantur, libera manent.*

<sup>27</sup> Ibid., II, 39.

<sup>28</sup> Cfr. Jesús María García Añoveros, "Luis de Molina y la esclavitud de los negros africanos en el siglo XVI. Principios doctrinales y conclusiones", op. cit., p. 313.

Molina describes that Inene Angola had sent a communication to the Portuguese crown stating his interest in converting to Christianity. Therefore, King John III sent priests and missionaries to the African coast to evangelize those lands. In fact, Inene Angola was not interested in joining Christianity, but in strengthening trade ties with the Portuguese. Consequently, since the intention of being baptized did not exist, some conflicts arose and priests and missionaries were attacked. Overtime, Inene realized that this was not an advantageous plan, since trade ties with the Portuguese were weakened. Thus, he asked the Portuguese crown to send new priests, explaining that he was determined to live life as a Christian and made it clear that he possessed silver and slaves to negotiate<sup>29</sup>.

Some time later, Inene Angola died and his place was taken by his son Dambi Angola, who received the new priests sent by the Lusitanian King, but did not fulfill the promise made by his father. He attacked the Portuguese, imprisoned some, killed others and left the few who were able to flee back to their ships. Then, as Molina describes, the Portuguese crown sent a mission of soldiers to Angola in order to punish the Africans for their behavior, but upon reaching the African coast the Portuguese were informed that Dambi Angola lived no longer and that his son Quilonge Angola would be in power. In accordance with Dambi's death, the Portuguese decided to change their strategy and try to win over the newest sovereign leader, sending many gifts. For four years the Portuguese maintained a good relationship with Quilonge, supporting him when he needed help to fight their enemies<sup>30</sup>.

The partnership was good for Quilonge, and even better for the Portuguese, who had already grown economically in the region. Realizing this, Quilonge treacherously attacked and declared war on the Portuguese, who for some time had formed alliances with the *sobas* of the neighborhood who feared the predominance of Quilonge. Thus, concludes Molina, that in light of all injuries suffered by the Portuguese over the years, the *aethiopes* could undergo just slavery in these battles, since they were openly at war<sup>31</sup>.

These *sobas*, who helped the Portuguese fight against the Quilonge, were the regional authorities that sent slaves to the African coast in order to be negotiated with the Portuguese. Molina then goes on to describe how the population was subjected to slavery by *sobas*, analyzing the legal forms of slavery that he had previously described. In judging local crimes, the *sobas* were absolute judges, issuing their sentences at the foot of a tree, where they decided on the death or slavery of the accused. Most crimes were insignificant thefts, like stealing a chicken or some even

<sup>29</sup> Cfr. Luis de Molina, op. cit., II, 34. col. 154, C.

<sup>30</sup> Ibid., II, 34, col. 155, C.

<sup>31</sup> Ibid., II, 34, col. 156, A.

smaller objects<sup>32</sup>. Not only were the accused sentenced to death, but their entire families were, as well. In addition, all their belongings were spoiled by the *soba*, so that after issuing the death sentence of the accused and their families, converting them into slaves, the *sobas* reached their ultimate goal: selling them to the Portuguese<sup>33</sup>.

Molina also reports the existence of a *soba* who held a large number of peacocks and said that anyone who snatched even a feather of one of his peacocks would be sentenced to death along with his entire family, as well as have his goods plundered. The same fate applied to all those who defied the *soba* or even if, for some reason, they caused him to distrust their behaviors<sup>34</sup>. He also reports that the *sobas* sent soldiers to various tribes at the same time, so that they would inform the population that soon their army would go through there and kill everyone who did not voluntarily surrender their sons and daughters to slavery<sup>35</sup>. Thus, they went into their homes, leaving their family members outside, enough for the soldiers to imprison them and sell them to the Portuguese.

Molina describes that, once, a boy looked at the wife of a *soba* and displeased him, and the *soba* condemned not only the boy, but his entire family to death<sup>36</sup>. He also reports that if, perchance, someone who owed some value to a *soba* were to die, he would confiscate all their children and sell them as slaves, even if the debt were small. Molina tells of the *sobas* who also would amputate the arms of dead slaves and use them to beat the others, to intimidate them until they reached the Portuguese ships<sup>37</sup>.

As there was cannibalism in some regions, many slaves were killed, dismembered, and had their meat sold in the local market, unless a Portuguese merchant offered a higher value than that offered in the market for meat, noted a horrified Molina, noting the ferocity and savagery of some (*tanta est hominum feritas ac barbaries*)<sup>38</sup>.

Molina condemned the sale of children, observing that, unlike in India, few in Africa sold their children willingly, but those that did exchanged them for a bell, a mirror or any other trifle<sup>39</sup> from the Portuguese.

## 5. Responsibility of the Slave Trade

Molina argues that he did not know about the existence of just war between *aethiopes*, since Africans were not concerned at all about the justice of wars and had not the slightest idea of the conditions required by

<sup>32</sup> Ibid., II, 34, col. 152, A.

<sup>33</sup> Ibid., II, 34, col. 158, A.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid., II, 34, col. 173, A.

<sup>36</sup> Ibid., II, 34, col. 157, D.

<sup>37</sup> Ibid., II, 35, col. 174, A.

<sup>38</sup> Ibid., II, 34, col. 158, C.

<sup>39</sup> Ibid., II, 34, col. 158 B.

natural law. He assumed that most people there enslaved with such justification were subjected to slavery unfairly, claiming that these conflicts were more robberies than wars (*potius illa esse latrocinia, quam bella*). He says:

Very rarely are they presumed to be fair. Those who consider themselves more powerful invade and oppress others; and those are who most export slaves, supporting the injustices of others and unjustly taking from the enslaved their freedom [...]. It follows how rarely it is presumed to be just the war between Africans<sup>40</sup>.

Additionally, the fact that certain people are barbarous or even under invincible ignorance, unable to survive by themselves, would not justify war. For Molina, these arguments were insufficient cause to enslave them and plunder their property<sup>41</sup>. While permitting the slavery of those who committed crimes punishable by the death penalty, Molina warns that petty crime such as the theft of a feather or a chicken should not condemn anyone to death or submit him/her to slavery, noting that the punishment of a convict should never be applied to their families<sup>42</sup>.

Because of all these reports, Molina explains that the merchants should assume the illegitimacy of the title of the slaves in these countries. Therefore, it was imperative that the Portuguese merchants certify, without any doubt, the origin of the enslavement, verifying that the background of the slave title stemmed from just cause. Research on the legality of the slave had to go back to the moment of enslavement was given and thus verify the legality of the title according to the law of the place, because the buyer would acquire nothing but what the seller had. If the slave were unjustly enslaved or if the seller were not the legitimate owner, then the buyer also was not. However, Molina says, the merchants, knowing all these facts and aware of the unfair source of slaves, did nothing, and were not even concerned to verify their titles, saying that if they did not buy them they would be threatened with death by African traders and they did not allow them to negotiate directly with the inhabitants of the land<sup>43</sup>.

Molina points out that there is not a single merchant who did not know of these injustices, that even being aware of the illegal status of some bought them as slaves without worrying about the necessary titles and just did not care about the morality of these purchases<sup>44</sup>. Facing

<sup>40</sup> Ibid., II, 35, col. 172, D: "Sane quam rarissime praesumendum est ea iusta esse. Etenim, qui se inter eos potentiores arbitrantur, alios iniuste invadunt, & opprimere conantur atque hi sunt, qui maiores mancipiorum venalium praedas asportant, aliis iniuriam sustinentibus, mancipiisque ipsi suam libertatem amittentibus [...]. Ex quibus patet, quam raro praesumendum sit esse bella iusta inter Aethiopes".

<sup>41</sup> Ibid., II, 105, col. 388, C.

<sup>42</sup> Ibid., II, 35, col. 164, A.

<sup>43</sup> Ibid., II, 34, col. 157-159.

<sup>44</sup> Ibid., II, 35, col. 165, A.

merchants' claims about the threats suffered by the *sobas* refusing to buy slaves or questioning their slave titles, Molina replied that it is the obligation of the merchant, if he suspects the illegality of any slave, to settle all existing doubts, with no excuses, even when facing many of the difficulties described above. If it were not possible to be absolutely sure of the validity of the title of the slaves, then the Portuguese should give up this trade, in order not to incur mortal sin<sup>45</sup>.

In cases where the merchant acquired slaves without legal title or who had entered slavery unfairly, freedom should be granted to them immediately, even those who had possessed them for a long time or for whom they had paid a high value. In this case, the buyer was not obliged only to deliver them, but should also reimburse the slaves of all amounts related to services provided in the period they were kept under his tutelage, and also, if necessary, compensate for injuries and damages suffered during this period of time. Never could the buyer charge the slave values equivalent to his purchase, even if unfair, because this is an obligation of the seller, says Molina, also concluding that if they were not released, those enslaved unjustly had every right to run away and demand, with the authorities, their compensation from their buyers<sup>46</sup>.

Molina harshly criticizes the attitude of the merchants, stating that it is not the business itself responsible for such great injustice, since by itself it would not produce this damage, but that the vice of merchants is responsible<sup>47</sup>. Therefore, the market established by the Portuguese in Africa depraved local customs, because, upon sighting the Portuguese vessels, the Africans initiated a wave of wars and kidnappings in order to sell slaves to the Portuguese newcomers<sup>48</sup>. He concludes that, if there were no Portuguese traders in the region, the problems of that society would be greatly reduced, since they would not have to whom to sell the slaves.

While sharply criticizing the merchants, Molina notes that the responsibility for the slave trade is not theirs alone, and that this was the bishops', priests' and rulers' responsibility, that they should issue a law against it. However, they consented to the deal claiming that slaves were baptized and thus became Christians, a priceless gift, in addition to benefiting in their material life, since before they had not even had clothes to wear and their food was miserable<sup>49</sup>.

Nevertheless, in Molina's opinion, salvation was no justification for slavery. Misdeeds do not justify good ends, and those who purchased slaves were not thinking of the salvation of the slave, but of their own profit (*sed temporale suum lucrum quaerunt*)<sup>50</sup>. Molina says that Christi-

<sup>45</sup> *Ibid.*, II, 35, col. 165, A.

<sup>46</sup> *Ibid.*, II, 35, col. 165.

<sup>47</sup> *Ibid.*, II, 35, col. 174, C.

<sup>48</sup> *Ibid.*, II, 35, col. 173, D.

<sup>49</sup> *Ibid.*, II, 34, col. 153, A.

<sup>50</sup> *Ibid.*, II, 35, col. 174, D.

anity should be spread to Africans by means other than slavery and that those interested in making money should do other business in that region. Since the religious missions in Africa lost all spiritual purpose, the trade monopoly granted by the Pope prescribes due to lack of final cause that justifies it<sup>51</sup>.

In any case, this cause could not justify slavery, because neither the Pope nor the emperor would have jurisdiction over the unfaithful people, and, having no jurisdiction over them, could not apply any punishment against them<sup>52</sup>.

After describing the circumstances in which the slave trade was practiced, Molina concludes that this was unfair and perverse, a crime not only against charity, but also against justice. He says that "all who exercise this deadly sin place themselves in a situation of eternal damnation, unless they can be excused because of an invincible ignorance. But I never knew of any in this condition"<sup>53</sup>. Molina then goes on to hold the authorities responsible and ensure that they know the circumstances in which this market operates, but do nothing to prevent them from happening.

The king and all the representatives of royal authority, as well as the bishops of Cape Verde and the island of São Tomé and those who hear all these people in confessions, are required, each according to their degree and position, to take steps so that this matter is analyzed and in order to determine what is allowed or not, and also why acts of injustice are suppressed effectively in the future, unless they know in fact anything that escapes me or I ignore other evident principles. My opinion is that it is a mortal sin<sup>54</sup>.

## 6. Concluding Remarks

In conclusion, we point out that Molina makes an extensive defense of the freedom of African slaves, since the whole purpose that motivated the Portuguese missions seemed to have been lost and all that remained was injustice and greed. In light of this, Molina notes that, to increase wealth, as there could be other more honest means, such as through the promotion of trade, mining and agriculture, there was no need to continue this market encouraging of unjust wars and deadly sins.

Molina's work draws attention by not appealing to theories that blacks were beings cursed by God, very common in that period<sup>55</sup>, and also by not basing his arguments on racial prejudice or any assumption of in-

<sup>51</sup> Monopoly granted by the papal bull *Romanus Pontifex* issued by Pope Nicholas V to the Portuguese.

<sup>52</sup> Cfr. Luis de Molina, op. cit., II, 106, col. 389, A.

<sup>53</sup> Ibid., II, 35, col., 171, C.

<sup>54</sup> Ibid.

<sup>55</sup> Cfr. Mathias Kaufmann, "Slavery Between Law, Morality, and Economy", op. cit., p. 187.

tellelectual inferiority<sup>56</sup>. Molina refers to slaves as human being as well as our next (*qua homines et proximi sunt*)<sup>57</sup>, establishing a relationship of respect.

Through Molina's observations, we can confirm the circumstances in which the market of black slaves was engendered to the New World and realize that even such great brutality did not motivate greater caution in trade. Merchants interested only in maximizing their profit ignored any injustice that they might be causing. In turn, the authorities, interested in high financial gains from the taxes collected from each crowded slave ship, were not interested in interfering in such a profitable business. Molina died in 1600, so he could not see that, even after he masterfully described the injustices and demanded the responsibility of the authorities, their observations and contraindications to this unfair and perverse trade, as he characterized it, the demand for slaves would increase remarkably in the following years in order to support the economic development of countries overseas<sup>58</sup>, and would continue in this way for centuries.

#### RESUMEN

Este artículo presenta las observaciones de Luis de Molina sobre el comercio de esclavos negros en el siglo XVI. Desarrollando sus argumentos legales y morales sobre este creciente mercado, Molina dirige su atención sobre este negocio y procura escuchar a quienes estaban directa o indirectamente relacionados con él. Además describe con detalles las pavorosas circunstancias implicadas en la esclavitud de los africanos, denuncia a las autoridades responsables de permitir tamañas atrocidades y exige la justificación de ellas, además de pedir rapidez en la suspensión de tan injusto y perverso mercado. La intención del artículo es demostrar las circunstancias y autoridades involucradas en este comercio que suplió de mano de obra el Nuevo Mundo y garantizó su desarrollo económico.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid., p. 219.

<sup>58</sup> Cfr. Gavin Wright, *Slavery and American Economic Development*, LSU Press, Baton Rouge, 2006, p. 162.