

# Marriage between Slaves: Analyzing Legal Documents from Spain and the United States

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Alfonso X (called the Wise),  
king of Castile, León and  
Galicia from 1252–1284, from  
the *Libro de los Juegos*

The early colonization of the Hispanic Caribbean was a violent and contentious process in which tensions and conflicts among different ethnic and interest groups were played out. The Spanish crown sought to maintain control by balancing power among different groups to ensure social order, effective government, and economic productivity. Royal orders, like the one included in this article, were aimed at achieving those three goals. This 1527 royal order reflects a legal tradition dating back to the thirteenth-century *Siete Partidas* (Seven-Part) code.

To gain a deeper, more nuanced understanding of the early colonization of the Caribbean, high school students might examine the selected segments of *Las Siete Partidas* and the 1527 royal order in much the same way professional historians examine similar sources. In doing so, they will get

a closer look at the institution of slavery and a variety of topics related to Spanish colonialism in the Caribbean, particularly the right of slaves to get married. A third set of document excerpts includes information on slave rights, or lack thereof, in the U.S. South during the antebellum era. Students can

contrast these excerpts derived from the English Common Law with the Spanish medieval legal tradition.

Each set of documents includes an introduction, the historical text itself (in translation), and the source citation.

After reading the first two handouts on pages 139 and 140, students should consider some basic questions (see Discussion Questions and Answers, Teacher's Key, on pages 141–142)—the “Context Questions” that historians ask when they analyze a primary document. Then they can pursue deeper, second and third tier “Content Questions,” and “Analytical Questions.” The final

handout on page 141 includes short passages from an 1853 book written by an American abolitionist. Students can then engage in a comparative analysis by answering the fourth set of questions that “Compare and Connect.” (see page 142, section D). A key concept revealed during this activity will be that the institution of slavery was not monolithic, but took on different forms in different cultures, times, and places.🌐

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## Document 1. Excerpts from *Las Siete Partidas* (Legal Code)

*Introduction:* The *Siete Partidas* (Seven-Part) legal code was produced under the direction of King Alfonso X (nicknamed “the Wise”) between 1256 and 1265. This code became the legal foundation for Spanish legislation both in the peninsula and in its expanding global empire.

This set of laws was created in the context of medieval Spain, during the eight-centuries-long Reconquista war between the Christian North and the Muslim South. By 1250, Christian forces had pushed back Muslim forces to the point that they retained control only of the southern emirate of Granada. During the Reconquista, Christian, Muslim, and Jewish Iberians coexisted, sometimes peacefully, and their respective cultures interacted to produce hybrid cultures. The expansion of slavery was one of the results of the Reconquista. The fourth *Partida* (article) is devoted to rules about family structures and interactions among individuals, including sections and specific laws on marriage and master-slave relations.

Source of the document: Robert I. Burns, ed., *Las Siete Partidas*, translated from the Spanish by Samuel Parsons Scott, vol. 4 (Philadelphia: University of Pennsylvania Press, 2001), 901, 979.

Part IV, Title XXI, Law VI.

### What Authority Masters Have Over Their Slaves.

A master has complete authority over his slave to dispose of him as he pleases. Nevertheless, he should not kill or wound him, although [the slave] may give him cause for it, except by order of the judge of the district; nor should [he] strike him in a way contrary to natural reason, or put him to death by starvation; except where he finds him with his wife or his daughter, or where he commits some offence of this kind, for then he has certainly a right to kill him. We also decree that, where a man is so cruel to his slaves as to kill them by starvation, or to wound or injure them so seriously that they cannot endure it, in cases of this kind said slaves can complain to the judge; and the latter in the discharge of his official duty should investigate and ascertain whether the charge is true, and if he finds that it is, he should sell the slaves, and give the price of them to the master; and he should do this in such a way that they never can again be placed in the power, or under the authority of the party through whose fault they were sold.

Part IV, Title V.

### Concerning the Marriage of Slaves

Servitude is the vilest and most contemptible thing that can exist among men, for the reason that man, who is the most

noble and free among all the creatures that God made, is brought by means of it under the power of another, so that the latter can do with him what he pleases, just as he can with any of the rest of his property living or dead. And slavery is such a contemptible thing, that the party who is subjected to it loses the power of disposing of his property as he desires, but he has not even control of his own person, except under the orders of his master....

Law I: *Whether Slaves Can Marry, Whom They Can Marry, and whether the Consent of the Masters must be obtained.*

It was a practice in ancient times, and one approved by the Holy Church, for slaves to marry one another; moreover, a slave can marry a freeman under the same circumstances, but they must be Christians for their marriage to be valid. Slaves can marry one another, and although their masters oppose it, the marriage will be valid, and should not be annulled for this reason if both give their consent, as stated in the Title concerning Marriages. Although they can marry against the will of their masters, they are nevertheless bound to serve them as they formerly did; and where several men own two slaves, who were married, and it becomes necessary to sell them, it should be done in such a way that they can live together, and serve those who purchase them. They cannot be sold, one in one country and one in another, because they would have to live apart....

## Document 2. Royal Provision, Valladolid, June 28, 1527

*Introduction:* Dated 1527, this document was created some 270 years after The Siete Partidas. By this time, Spanish forces—led by the Catholic monarchs—had defeated the Moors and Columbus had first encountered the Americas. This piece of royal legislation addresses what the Spanish Crown, under Emperor Charles V, perceived to be serious problems: African slaves running away from their masters and the threat of slave rebellions. The document explains their causes and prescribes a way to solve them; it reassures slave owners, and establishes penalties for those who disobey the mandate.

The document provides a window onto a variety of topics and issues pertaining to Spanish rule of Santo Domingo, also known as Hispaniola (which encompasses present-day Haiti and the Dominican Republic). These include government institutions, slavery, the slave trade, slave resistance, and tensions between different interest groups in Spain and in the Spanish colony. Charles V was at the apex of the Spanish empire, an absolutist monarch, in the style of Renaissance monarchies that contrasted with earlier feudal models in which monarchs enjoyed limited powers over smaller territories. The Council of Indies was a powerful advisory body charged with the administration of the New World colonies, beginning with Hispaniola, Puerto Rico, Jamaica, and Cuba, and later mainland territories such as New Spain (Mexico). Spanish monarchs sought to exercise their sovereignty over the colonies through a government structure that included a wide range of functionaries, among them viceroys, governors, captains-general, members of courts of appeal (with judicial and executive powers known as Royal Audiencias), and a host of other government officials.

*Source of the document:* Translation by Luis Martínez-Fernández from a transcript published in Manuel Lucena Salmoral, *Regulación de la esclavitud negra en las colonias de América Española* [1503–1886]: *documentos para su estudio*. ([Spain]: Servicio de Publicaciones, Universidad de Alcalá, 2000), 33–34.

Charles I [King of Spain, also known as Emperor Charles V of the Holy Roman Empire], etc.

Whereas we have received information that because many blacks have been transported and continue to be transported daily to the Island of Hispaniola, and since there are very few Christians there, circumstances that may result in unrest and rebellion of the aforementioned blacks, who finding themselves vigorous yet enslaved, may either leave for the wilderness or escape from the farms and haciendas in which they are, as they have tried many times; and since we did not trust them and this could lead to other damages and inconveniences, and having discussed the matter in the Council of Indies, we recognize that it would be a great remedy to force blacks, who henceforward are transported to the said island or who are already there, to get married so that each has his own wife; this, along with the love that they have for their wives and children and the order of matrimony, shall foster peace among them and end other sins and inconveniences, which on the contrary would persist; likewise we are informed that while some Christian Spaniards have intended to get them married, many have not allowed this to happen, out of fear that the status of marriage would make them free, and relieve them from further service, which is not true; and in consultation with the King, we agreed to issue this letter mandating that heretofore each and any individuals who have received our licenses, either general ones as granted to the Island, or special licenses to transport black slaves to the Island of Hispaniola, be obliged to have half of their imported slaves be male and the other half be female, so that there be as many of one as of the other, so that



Map of Hispaniola from the *Libro di Benedetto Bordone*, published in 1528 (titled *Isolario* in later editions).

they can be joined in legal and blessed matrimony, if it is their will and they so desire, under penalty of confiscation of such slaves, even when holding proper licenses; likewise, we order all residents of the island, who have or will in the future have black slaves, to get their slaves married within fifteen months of the proclamation of this letter, if the slaves so desire, because marriage must be voluntary and not coerced, under penalty of confiscation; and hereby we declare that if they are married with the consent of their lords and masters, they shall not be considered free but rather slaves, as if their matrimony had not occurred; and we order the President and council members of our Royal Audiencia, which resides in that island and other judicial authorities to completely keep, fulfil, and execute these provisions, under penalty of confiscation of all of their properties; and so that all of the above be well known and no one can claim ignorance, we order that this letter be publicly read in the plazas and markets of the city of Seville, and the cities, villages, and settlements of the Island of Hispaniola by the town crier in the presence of a public notary.

## Document 3. Descriptions of Slavery in the United States, ca. 1853

*Introduction:* The American abolitionist author of *The American Slave Code in Theory and Practice* was writing in the decade preceding the Civil War, when the morality of slavery and its expansion into Western territories was being hotly debated in newspapers, state legislatures, and within religious congregations. The author quotes from another contemporary book (George M. Stroud's 1827 book, *Sketch of the Slave Laws Relating to Slavery in the Several States of the United States of America*).

*Source of the document:* William Goodell, *The American Slave Code in Theory and Practice*, 3rd. ed. New York: American Anti-Slavery Society, 1853, excerpts from pp. 105–106.

The slave has no rights. Of course, he, or she, cannot have the rights of a husband, [or] a wife. The slave is a chattel, and chattels do not marry. 'The slave is not ranked among sentient beings, but among things;' and things are not married.

Slaves are not people, in the eye of the law. They have no legal personality.' So said Mr. Wise.\* ...

The same doctrine has always been held (though differently enunciated) at the South. Slave mothers are there [*sic*] licensed by their masters to be 'breeders,' not wives, and thus they are retained as slaves.

'A slave cannot even contract matrimony, the association takes place among slaves, and is called marriage, being properly designated by the word *contubernium*, a relation which has no sanctity, and to which no civil rights are attached.' (Stroud's *Sketch of the Slave Laws*, p. 61.)

\* "Mr. Wise" was Henry A. Wise, a Virginia politician, and a Confederate general during the Civil War.

## Discussion Questions and Answers (Teacher's Key)

### A. Questions about Context (Documents 1 and 2)

1. Is each document a primary source, or a secondary source?  
**Answer:** Each is a primary source, and an official document. In fact, both are legislative documents; the first one is a segment from a legal code and the second one is a particular royal decree.
2. Is each document a reliable source?  
**Answer:** Each is reliable as far as representing the views of the Spanish monarchy on the subject of slaves and their rights, particularly their right to marry. Document 2 is a reliable representation of the Crown's proposed solution and justifications. That said, there was no assurance that the laws were followed, particularly in Spain's distant colonies.
3. When and where was each document created?  
**Answer:** Document 1 was produced between the 1250s and 1260s in the Kingdom of Castile (today, part of Spain). Document 2 was issued in Valladolid, Spain, in 1527.
4. Who wrote each document, and who was its intended audience?  
**Answer:** Document 1 was created over several years by a team of jurists under the instructions of King Alfonso X of Castile. The intended primary audience is government officials such as judges charged with applying the laws of the kingdom. Document 2 was written by King Charles I of Spain with the advice of the Council of Indies. The intended audiences are residents of the port city of Seville and settlers throughout the island of Hispaniola, most specifically, slave traders, masters, and local authorities.

### B. Questions about Content (Documents 1 and 2)

5. What is Document 1 about?  
**Answer:** It consists of segments of a legal code that speak specifically to the subject of masters' power over their slaves and slaves' rights, particularly the right to marry.
6. What powers did masters have over their slaves as spelled out in Document 1?  
**Answer:** A master had "complete authority over his slave to dispose of him as he pleases." These powers, however, were not absolute. Masters could not unleash undue violence against their slaves, wound them, or kill them; they could not keep them from marrying.
7. What rights and protections did slaves have as spelled out in Document 1?  
**Answer:** Slaves had the right to complain to judges if they felt they were being abused by their masters. They had the right to marry other slaves as well as free individuals; if married, the slaves had protections against being physically separated.
8. What was the purpose of Document 2?  
**Answer:** The main point of this royal decree is to reduce or eliminate the possibility of rebellion and escapes by African slaves.
9. How is Document 2 structured?  
**Answer:** It starts by identifying the problem of slave escapes and the potential for slave rebellion. Then it explains the root of these problems, namely a demographic reality of "very few Christians" (meaning white Spaniards) and a majority of black slaves; and social instability among slaves due to the fact that most were unmarried. It prescribes a course of action: promote slave marriage and force slave merchants to bring as many female as male slaves. Lastly, it orders penalties for merchants that disobey these mandates as well as members of the Royal Audiencia who fail to enforce them.

## Discussion Questions and Answers (Teacher's Key) cont.

10. What sectors of society are explicitly mentioned in Documents 1 and 2?

**Answer:** In Document 1: slaves, masters, free people, judges, and the Catholic Church. In Document 2: slaves (male and female), Spanish settlers (particularly slave owners), merchants licensed to transport slaves, and government officials.

11. What government institutions are explicitly mentioned in Documents 1 and 2?

**Answer:** In Document 1: court judges. In Document 2: the Crown, Council of Indies, Royal Audiencia of Santo Domingo, all the way down to public notaries and town criers.

### C. Analytical Questions (Documents 1 and 2)

12. What attitudes toward slavery are reflected in Document 1?

**Answer:** Slavery is viewed as "vile," "contemptible," and contrary to God's creation of humans as noble and free. In other words, it is unnatural.

13. How are slaves and slavery viewed and represented in Document 2?

**Answer:** Slaves are inferior and not trustworthy. On the other hand, their humanity is recognized as well as their capacity to love their spouses and children and their right to get married if they so desired.

14. What is the relation between gender balance among slaves, marriage rates, and social peace and stability as presented in Document 2?

**Answer:** The Crown believed that gender imbalance (a low ratio of women) did not facilitate marriage unions, which it viewed as a source of stability.

15. The penalties prescribed in Document 2 seem to anticipate disobedience by slave traders, slave masters, and royal officials. Why is the Crown anticipating disobedience?

**Answer:** The Crown realizes that its colonies are far away from Spain and that it may be hard to enforce royal decrees. It also recognizes that slave traders and slave owners do not welcome restrictions and regulations such as mandated cargo male-female ratios and encouraging marriage of their slaves.

16. Why would slave traders and masters oppose and defy the above mandates?

**Answer:** There are several reasons. Traders did not want to be told what types of slaves they should transport; they usually preferred to transport more males than female because

males were more readily available for purchase in Africa, and planters in Hispaniola had a preference for male slaves, deemed to be stronger and more capable of withstanding grueling physical labor. Also, granting slaves the right to marry potentially created problems if masters wanted to separate slave families through sale.

17. How did the agendas of slave traders and masters differ from the Crown's objectives? In what ways did they coincide?

**Answer:** Slave traders were interested in higher profits gained from transporting slave cargoes that responded to local demand. Slave masters were also interested in profits generated by the exploitation of the most productive slaves; at the same time, masters wanted to avoid slave flight and insurrection. The Crown was also motivated by material interests such as higher tax revenues generated by slave labor but it was interested in keeping colonists in check, guaranteeing social order, and Christianizing slaves.

### D. Questions that Compare and Connect (Documents 1, 2, and 3)

18. How do Documents 1 and 2 relate to each other?

**Answer:** Document 1 is a broad medieval legal code; and Document 2 is a specific law issued 270 years later. The 1527 royal order stems from the legal tradition of Las Siete Partidas.

19. How are the geographic and chronological contexts of Documents 1 and 2 different?

**Answer:** Document 1 was issued at the time of the Reconquista and applied exclusively to Peninsular territories under the Crown of Castile. At the time, slavery did not have a direct connection with blackness. Iberia's slaves were of different races and different faiths.

20. Read Document 3, which is from a book published in the United States in 1853. How does this document compare with Documents 1 and 2?

**Answer:** Documents 1 and 2 contrast sharply with these passages from Goodell's 1853 book. Las Siete Partidas and the 1527 royal decree reflect a legal tradition in which the humanity of slaves was recognized and which granted some rights and protections to slaves, including the right to get married. The U.S. legal tradition, meanwhile, was based on colonial slave codes that viewed slaves as chattel (property) who did not have rights to own property or engage in legally binding contracts such as marriage.