

# “Jus Cogens: *Androcide*, or Killing the Black Husband, Black Father, and Black Family Unit as an ‘Image of God’” ©

By

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## Abstract

W.E.B. Du Bois (1868 – 1963) was the first person of African descent to earn the Harvard Ph.D. He became an exemplary, world-renowned scholar, philosopher, and social reformer. Perhaps his greatest historical writing is *Black Reconstruction in America, an Essay Toward a History of the Part which Black Folk played in the Attempt to Reconstruct Democracy in America, 1860-1880*, published in 1935. This work is sobering, because it painstakingly sets forth the general thesis that the American Civil War (1861 – 1865) never ended, because the institution of chattel slavery only morphed into fierce resistance to the human rights and civil rights of the newly-emancipated Black slaves and into newer, more vicious forms of enslavement and oppression. Today, ninety years after Du Bois published this monumental history, the African American Intellectual Historical Society (AAIHS) has called for papers that provide thought, reflection, and analysis; and this paper is an addition to that collection. Here, I have taken a survey of dozens of Du Bois’ books, articles, and essays, and I have pinpointed only one, but very important, component of Du Bois’ vast scholarly interests: namely, the Black church and its potential role in African and African American liberation. Frequently, throughout his long career, Du Bois critiqued, criticized, and admonished the Black church to reform itself from within. He was, of course, a life-long member of that institution, having been raised as a New England Congregationalist, and later joining or affiliating with the Episcopal Church and the A.M.E. Church. But later in life, Du Bois became a “post-Christian,” after having grown frustrated with organized Christianity. This

paper presents the following hypothesis: namely, that Du Bois' critique of the Black church centered largely around the lack of high-quality training of Black clergymen; and that African or African American theology was too narrowly focused and was therefore unable to grapple with the important ethical questions of the day, such as economics, socialism, poverty, and war. Unwittingly, what Du Bois was suggesting is that the Black church reinterpret the Sacred Scriptures in a radically new way; and here I suggest that Du Bois' proposals were eerily similar to the theology and methods of the Jewish religion. Relying heavily upon Du Bois' example, this paper concludes with a suggestion that the Black church, in its quest for social justice and the liberation of persons of African descent, begin to reimagine the Holy Bible in a manner similar to how the Jews have imagined the Torah over the past several centuries.

## Introduction

This paper was written at the invitation of the African American Intellectual Historical Society's "Call for Papers: 90 Years Since [W.E.B. Du Bois'] *Black Reconstruction in America*." (It is being resubmitted to the Africa University's Law Review journal under the headings "the law of nations," "international human rights," and "law and religion.") To be sure, Dr. Du Bois (1868 – 1963) was one of the towering, world-renowned intellectuals of the twentieth century, being one of the founding fathers of modern sociology, the National Association for the Advancement of Colored People, and Pan Africanism. As a prolific scholar, Du Bois believed in science and wrote passionately, leaving us great works such as *The Suppression of the African Slave Trade* (1886); *The Philadelphia Negro* (1899); and *Black Reconstruction in America* (1935). During his early career, however, Du Bois also demonstrated his appreciation of Black folks' spiritual gifts, as his best-selling *The Souls of Black Folk* (1903) plainly demonstrates. But towards the end of Dr. Du Bois' long career, his frustration with American Christianity and the Black church<sup>1</sup> increased exponentially, and he even applauded the Soviet Union's overthrow of

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<sup>1</sup> In this position paper, the definition of the word "Black church" has been borrowed from the following text: C. Eric Lincoln and Lawrence H. Mamiya, *The Black Church in the African American Experience* (Durham, N.C.: Duke University Press, 1990), p. 1 ("We use the term 'the Black Church' as do other scholars and much of the general public as a kind of sociological and theological shorthand reference to the pluralism of black Christian churches in the United States.") See, also, James H. Cone and Gayraud S. Wilmore, *Black Theology: A Documentary History*, Vol. One: 1966-1979 (Maryknoll, N.Y.: Orbis Books, 2003), p. 217, citing Lincoln and Mamiya, *The Black Church in the African American Experience*, and adopting the same definition of "Black Church." See, also, Carter G. Woodson, *The History of the Negro Church* (Washington, D.C.: The Associated Publishers, 1921), p. 282 ("The [Negro] church serves as a moral force, a power acting as a restraint upon the bad and stimulating the good to further moral achievement. Among the Negroes its valuable service is readily apparent..."); W.E.B. Du Bois, "The Souls of Black Folk," *Writings* (New York, N.Y.: The Library of America, 1986), p. 496 ("[T]he [Negro] Church often stands as a real conservator of morals, a strengthener of family life, and the final authority on what is Good and Right"); and James H. Cone and Gayraud S. Wilmore, *Black Theology: A Documentary History*, Vol. One: 1966- 1979 (Maryknoll, N.Y.: Orbis Books, 2003), p. 218 ("[T]he Black Church of the nineteenth century... thought of itself as God's judgment upon racism... converted thousands, stabilized the Black family... founded schools and colleges... And provided the social, cultural, economic, and political base of the entire African American community in the United States.")

the Russian clergy. By the late 1950s, Dr. Du Bois and the Black Church seemed to have parted ways. In this essay, however, I shall try, as an African American churchman, to reconcile Du Bois' scientific approach to ameliorating the problems of African and African American people to the Jewish conceptualization and application of the Torah, with the suggestion that Du Bois' scientific inclinations would have naturally admonished the Black church to copy this Jewish approach to the Torah and religion. In doing so, my objective here is to demonstrate how, like Dr. Du Bois, the Black church, or African American Christians as a whole, might incorporate scientific scholarship into the Black church's historic quest for social justice. (Here I owe a great debt to Jewish rabbis and sages who have grappled with both science and Torah for several centuries, and whose religion emphasizes Deuteronomy 16:20, "Justice, justice shall you pursue"). In so many ways, Du Bois encouraged the Black church to reform its religion and liturgical emphasis so that the ends of social justice could be better achieved.

During the 1940s, African Americans in the United States were paying close attention to international plight of Jews and worked closely with the Roosevelt and Truman administrations to enact policies and laws that would root out racial oppression and discrimination. Indeed, during World War II, the African American community had pushed the "Double V" slogan, meaning victory over the Nazis abroad and victory over racial discrimination and prejudice at home in the United States. The parallel situation concerning the Jews in Nazi Germany and American Blacks in many areas in the South, and in many parts of the inner cities in the North, were unnerving. During the early 1940s, Du Bois expressed the very realistic concern that:

As the Negro develops from an easily exploitable, profit-furnishing laborer to an intelligent independent self-supporting citizen, the possibility of his being pushed out of this American fatherland may easily be increased rather than diminished. We may be expelled from the United States as the Jew is being expelled from Germany.<sup>2</sup>

In 1945, the NAACP sent Dr. Du Bois, as one of its delegates, to the United Nations, where he witnessed the ratification of the United Nations Universal Declaration of Rights. That Declaration set forth nearly all of the principles and objectives which Du Bois, the NAACP, and scores of other African Americans—including the Black Church— had sought to achieve since the end of the U.S. Civil War (1861 – 1865).

Dr. Du Bois' parallel between the plight of Black Americans with that of twentieth-century Jews is fully appropriate. In the United States, during the early part of the twentieth century, Blacks and Jews acknowledged the parallel and worked together to end the worst forms of racial discrimination and abuses on American soil. But Du Bois seems to have never seriously studied how trained Jewish rabbis and trained Jewish lawyers conceptualized the Torah as a real,

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<sup>2</sup> W.E.B. Du Bois, "The Dusk of Dawn," *Writings* (New York, N.Y.: The Library of America, 1986), p. 77.

practical constitutional law which the Jews applied to every aspect of Jewish life; nor is there any evidence that Du Bois ever conducted any comparative analysis between Jewish religion and Black-church religion. I believe that had Du Bois ever conducted this analysis, that he would discovered that his own criticisms of the Black church was tantamount to a suggestion that the Black church should become *more Jewish* or *like the Jews*.

Throughout Du Bois' long career, he often critiqued African American clergyman, through comparing their training, organization, and social-justice mission to that of their secular counterparts in other fields. He wanted a more liberally educated and highly sophisticated African American clergyman for Black churches. But he never seriously scientifically analyzed whether the training of Jewish rabbis or Jewish lawyers should serve as a model for African American clergymen. Had Du Bois conducted such a scientific analysis, he might naturally have taken up an interest in the Torah, and thus he naturally would have applied that scientific analysis toward the reformation of the Black church. On this 90<sup>th</sup> anniversary of Du Bois' *Black Reconstruction in America*, I shall expand upon this hypothesis, while making some suggestions as to how Du Bois might have interpreted the Holy Bible as Jewish rabbis interpret Torah.

Seeing the Holy Bible as law, or Torah, the Jewish rabbis are drawn to the secular law. The rabbis, as law men, and by virtue of their religion, are naturally drawn to the philosophy, the sciences, and to secular law in a manner in which African American clergymen are not. In the field of law, for instance, through Jewish legal influence, we have inherited many profound legal principles. For instance, the law of *jus cogens* and the "image of God" foundations of international human rights law are promulgated in the Torah (Genesis 9:6). These two principles are also re-stated in the Decalogue (Exodus 20: 1-17) and other narratives in the Old Testament. The Torah, the Oral Law of ancient and Medieval Jewish rabbis, as well as the New Testament, and the writings of subsequent generations of Christian theologians and legal theorists, help to explain how the "image of God" is manifest in the structure and nature of *the first family*, where Adam was first created, then Eve; and from which Adam, the first husband or first father, was placed at the "Head of the Family." And from this example in the Old Testament, we may re-affirm the saying of Christ<sup>3</sup> and the theology and writings of the Apostle Paul.<sup>4</sup> Wherefore, in the Holy Bible and under orthodox Jewish law, the institution of "marriage," in which man is "Head

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<sup>3</sup> Matthew 19: 4-6 ("And he answered and said unto them, Have ye not read, that he which made them at the beginning made them male and female, And said, For this cause shall a man leave father and mother, and shall cleave to his wife: and they twain shall be one flesh? Wherefore they are no more twain, but one flesh. What therefore God hath joined together, let not man put asunder.")

<sup>4</sup> 1 Timothy 2: 12-13 ("But I suffer not a woman to teach, nor to usurp authority over the man, but to be in silence. For Adam was first formed, then Eve."); 1 Corinthians 11: 3 ("But I would have you know, that the head of every man is Christ; and the head of the woman is the man; and the head of Christ is God.")

of the Family,” is itself the “image of God.”<sup>5</sup> Where the Jews have developed structures and infrastructures (e.g., Beit Dins, or local Jewish courts) to apply this holy Torah to the everyday lives of Jews, the Black church has not been so fortunate. Here, Du Bois likely would admonish the Black church to follow suit, for the sake of the self-defense and self-preservation persons of African descent who today must confront racism and neocolonial oppression.

Although Du Bois himself was a modern feminist whose writings do not strictly support patriarchy, the Black church, through implementing and interpreting Torah in a Jewish manner, likely would have, and my suggestion here is that the plight of Black family would have been ameliorated. Here, I should explain by emphasizing the important fact that Jacob (Israel) organized his twelve sons (i.e., the twelve tribes of Israel) along patriarchal lines; for Jacob, who had one daughter and twelve sons, only invested his sons with the heritage of the promise, as the leaders or patriarchs over their respective families. This the lawgiver Moses reaffirmed in the Torah, where a narrative is given of the national organization of the nation-state of Israel after having reached the Promised Land. See, e.g., Numbers 2: 32 (“These are those which were numbered of the children of Israel *by the house of their fathers*”). Indeed, each of the twelve tribes were headed by a Prince. See, e.g., Numbers 1: 16 (“princes of the tribes of their fathers, heads of thousands in Israel”).

The “Restored Israel,” whom Jesus the Messiah inherited, was organized along the lines of twelve men who were Christ’s apostles (Matthew 10: 1-5), who thus symbolized the twelve tribes or the twelve princes of ancient Israel (Revelation 7: 4-8; 21:12). From the example of the Torah, which Christ was the principal interpreter, the husband and the father is the “head” of the family, the clan, the tribe, the nations, etc. The woman, who came out from the man, was designed to be the man’s helper (Genesis 2:18). The Torah and the Decalogue thus constitute an age-old common law that exemplifies of the “Head of the Family” or *patriarchal* status within the traditional Anglo-American common law of the family structure,<sup>6</sup> to wit:

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<sup>5</sup> See, e.g., Footnotes # 1 and #2, above. See also The Carter Center’s *Scripturally Annotation of the Universal Declaration of Human Rights* at the following link: [universal-declaration-human-rights-scripturally-annotated.pdf](https://www.cartercenter.org/universal-declaration-human-rights-scripturally-annotated.pdf).

<sup>6</sup> See, e.g., 26 Am Jur, Husband and Wife, stating:

§ 10 Head of Family

The husband, unless incapacitated from executing the authority and performing the duty, is **head of the family**. This is so, not only at common law, but under the Married Women’s Acts. It is not the purpose of these acts to depose **the husband from the position given him by the common law as the head of the family**. It is necessary to the unity and preservation of the family, which is regarded as the basic of the state, to have a single head with control and power, and the husband is made that head and, in return, is made responsible for the maintenance and, at common law, for the conduct of his wife. Such fundamental authority is necessary to his duty to protect and provide for his wife and children.

## THE TORAH: FAMILY IN ANCIENT ISRAEL

### THE FAMILY UNIT

The Israelite family as reflected in all genealogical and narrative sources is **patriarchal**. Attempts have been made to find traces of matriarchy and patriarchy in the earliest stages of Israel's history, but none of the arguments is convincing (see below).

The family was aptly termed *bet av* ("**house of a father**"; e.g., Gen. 24:38; 46:31). To found a family was "to build a house" (Deut. 25:10). The *bayit* ("house") was a subdivision of the *mishpahah* ("clan, family [in the larger sense]," Josh. 7:14). The criterion for membership in a family (in the wider sense) was blood relationship, legal ties (e.g., marriage), or geographical proximity. The genealogies of I Chronicles sometimes speak of the clan leader as the "**father**" of a town, or towns, in his district (e.g., I Chron. 2:51, 52). A common livelihood or profession was probably a major factor in family and clan solidarity. Besides those families who engaged primarily in agriculture (conducted on their own lands), there were others who practiced some specific trade (e.g., they were linen workers, I Chron. 4:21, or potters, I Chron. 4:23). The sacerdotal functions of the Levites and the sons of Aaron are the most striking case in point....

### FUNCTIONS OF FAMILY MEMBERS

The respective functions and status of these persons are reflected in scattered passages. **The father was the head of the family unit** and owner of its property (Num. 26:54–55). He was the chief authority and, as such, is portrayed as commanding (Gen. 50:16; Jer. 35:6–10; Prov. 6:20) and rebuking (Gen. 37:10; Num. 12:14). Ideally he was expected to be benevolent, to show love to his family (Gen. 25:28; 37:4; 44:20) and also pity (Ps. 103:13). The patriarchal blessing (Gen. 27) evidently carried legal force with regard to the distribution of the patrimony and other attendant privileges.

The mother, if she were the senior wife of a harem or the sole wife of a monogamous marriage, occupied a place of honor and authority in spite of her subordination to her husband (see below). At his death she might become the actual, and probably the legal, head of the household (II Kings 8:1–6) if there were no sons of responsible age. As a widow, she was especially vulnerable to oppression; concern for her welfare was deemed a measure of good government and wholesome society (e.g., Deut. 24:17). The influence of famous mothers in epic tradition, e.g., Sarah (Gen. 21:12) and the wife of Manoah (Judg. 13:23), is illustrative of the significance attached to their role. Not all of their power was exercised openly; often the motherly stratagem is deemed worthy of special notice in the epic tradition, e.g., the stratagems of Rebekah (Gen. 27:5–17), Leah (Gen. 30:16), and Rachel (Gen. 31:34). The mother naturally displayed care and love (Gen. 25:28; Isa. 49:15; 66:13; Prov. 4:3).

Accordingly, as I read W.E.B. Du Bois' *Black Reconstruction in America* and other writings, I am persuaded that his basic antidote for ameliorating the African and African American people was centered around the home, the family, the tribe, the clan, etc.<sup>7</sup> Even Du Bois' feminism and concern about the plight of black women was centered largely around the disruption of black family life caused by slavery.<sup>8</sup> Marriage and family among black folks were of immense importance in Dr. Du Bois' sociological science.<sup>9</sup> Even Du Bois' Pan African scheme was heavily centered upon safeguarding "the ancient faith in communal family and clan" as a "method of protecting the masses."<sup>10</sup> But unlike the Jewish rabbis, Du Bois never seriously grappled with the practical application of Torah to African American life—he never seemed to question whether the power of the Black church over the lives of their congregants might be transformed into wholesome systems of self-government over the Black family, in a similar manner in which Jewish law governs Jewish families and communities.<sup>11</sup>

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<sup>7</sup> See, e.g., Du Bois, "The Conservation of Races," *Writings* (New York, N.Y.: The Library of America, 1986), pp. 815 - 826.

<sup>8</sup> See, e.g., Du Bois, "The Souls of Black Folk," *Writings*, supra, p. 368 ("The red stain of bastardy, which two centuries of systematic legal defilement of Negro women had stamped upon his race, meant not only the loss of ancient African chastity, but also the hereditary weight of a mass of corruption from white adulteries, threatening almost the obliteration of the Negro home.")

<sup>9</sup> *Id.*, p. 461, stating:

The plague-spot in sexual relations is easy marriage and easy separation. This is no sudden development, nor the fruit of Emancipation. It is the plain heritage from slavery. In those days Sam, with his master's consent, 'took up' with Mary. No ceremony was necessary, and in the busy life of the great plantations of the Black Belt it was usually dispensed with. If now the master needed Sam's work in another plantation or in another part of the same plantation or if he took a notion to sell the slave, Sam's married life with Mary was usually unceremoniously broken, and then it was clearly to the master's interest to have both of them take new mates. This widespread custom of two centuries has not been eradicated in thirty years. To-day Sam's grandson 'takes up' with a woman without license or ceremony; they live together decently and honestly, and are, to all intents and purposes, man and wife. Sometimes these unions are never broken until death; but in too many cases family quarrels, a roving spirit, a rival suitor, or perhaps more frequently the hopeless battle to support a family, lead to separation, and a broken household is the result. The Negro church has done much to stop this practice, and now most marriage ceremonies are performed by the pastors. Nevertheless, the evil is still deep seated, and only a general raising of the standard of living will finally cure it.

<sup>10</sup> Du Bois, "Nigeria," *The World and Africa* (New York, N.Y.: International Publishers, 2015), p. 331.

<sup>11</sup> Clearly, Du Bois analyzed and discussed Jews in his writings, such as *The Souls of Black Folk* (1903) wherein he described some unscrupulous Jews as being heirs of the slave barons in Georgia and Alabama. Nevertheless, Du Bois praised Jews such as Joel Spingarn and joined forces with several Jews when helping to found the NAACP in 1909-1910. The several prominent Jews who helped to found the NAACP included Henry Moskowitz, Rabbi Emil Hirsch, and Rabbi Stephen Wise, who were all involved in the initial formation of the NAACP in 1909. Later, other Jews such as Julius Rosenwald, Jacob Schiff, and Joel Spingarn's own family (the Spingarn family) played crucial roles through financial contributions and leadership positions.

In other words, my hypothetical assessment of Du Bois' potential scientific analysis of Torah and Jewish life, while relying upon the Holy Bible (i.e., the Torah and other Jewish traditions) as a model, is that, in making such an analysis, DuBois would have admonished the Black Church and Black families in the United States today— in their quest for social justice and civil rights — to utilize the Torah in order to improve “Christian marriages” whereby African American fathers are established as the “Head of the Family,” as matter of *jus cogens* or customary international law on human rights.<sup>12</sup> Du Bois' scientific analysis likely would cause the Black Church and Black families to rely upon the Torah, *jus cogens*, and customary international law as defenses against the decline and fall of the Black family in the United States.

### CHRISTIAN MARRIAGE IS THE ‘IMAGE OF GOD’

#### Christian Marriage and Family

• **1 Corinthians 11:3** (“But I would have you know, that the head of every man is Christ; and the head of the woman is the man; and the head of Christ is God.”)

• **Ephesians 5:25-27** (“Husbands, love your wives, even as Christ also loved the church, and gave himself for it....”)

• **1 Peter 3:1-7** (“...Likewise, ye wives, be in subjection to your own husbands.... Likewise, ye husbands, dwell with them according to knowledge, giving honour unto the wife, as unto the weaker vessel....”)

Here, social justice for African American families, which Du Bois valiantly fought for throughout the twentieth century, is amply reflected in the Torah (i.e., the Holy Bible), which the Black church is also founded upon. In other words, the Torah and the Decalogue constitute an age-old expression of customary international law's safeguards against genocide, androicide, or gender-specific oppression, all of which constitutes “slavery and slave-related practices,”<sup>13</sup> and which Dr. Du Bois protested against throughout the twentieth century. Ninety years later, we are

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<sup>12</sup> See, generally, “Human Rights,” *Jewish Virtual Library* (<https://www.jewishvirtuallibrary.org/rights-human>). And see, generally, “The African Charter on People's and Human Rights and the Black American Family.”

<sup>13</sup> *United States v. Bellaizac-Hurtado*, 700 F.3d 1245, 1261 (11th Cir. 2012)( defining *Jus Cogens* as “‘universality,’ legal issues that involve “slavery and slave-related practices... have thus far been identified as supporting universal jurisdiction”)



still grappling with the same problems that contribute naturally to the decline and fall of the Black family in the United States: criminal practices that are within the subject-matter jurisdiction of the federal courts of the United States, which the Black church, under the auspices of Torah law, ought to petition in order to enforce their civil and human rights.<sup>14</sup>

Ninety years after the publication of *Black Reconstruction in America* has seen new ominous signs, such as the sustained suppression of African American men, which I believe Du Bois would today call a human rights catastrophe and “androcide.” To be sure, “androcide” is a form of genocide. The word “androcide” means the targeted killing men and boys. Here, within an American context, the system of chattel slavery perpetuated a form of “androcide” in the form of a sinister system of prohibiting African Americans from fulfilling their natural functions as “husbands” and “fathers,” thereby decimating the institution of African American “marriage” and thus violently mutilating the “Image of God”—i.e., *Jus Cogens*.<sup>15</sup>

In the Torah (i.e., the Law of Moses) and in the New Testament, androcide is mentioned and manifested as political measures utilized to suppress particular ethnic or racial groups, particularly the ancient Hebrews (Old Testament) and the Jews (New Testament). In other words, “[m]en and boys are not solely targeted because of abstract or ideological hatred. Rather, male civilians are often targeted *during warfare* as a way to remove those considered to be potential combatants, and *during genocide* as a way to destroy the entire community.”<sup>16</sup>

In the Law of Moses, the narrative in the Book of Exodus regarding the killing of Hebrew baby boys denotes three notable factors or laws, to wit:

- First, there is the factor of ethnic or racial distinctions.
- Second, there is the factor of social, economic, and political insecurities that stem from those ethnic or racial distinctions; and,
- Third, there is the factor of gender-specific ethnic or racial oppression (i.e., *gendercide* or *androcide*) that is the result of social and political insecurities between two distinct ethnic or racial groups.

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<sup>14</sup> Id. This principle is expressly acknowledged by the Eleventh Circuit Court of Appeals (covering the federal district courts of Florida, Georgia, and Alabama).

<sup>15</sup> See, e.g., W.E.B. Du Bois, “The Souls of Black Folk,” *supra*, p. 378 (“Here at the stroke of the pen was erected a government of millions of men,— and not ordinary men either, but **black men emasculated by a peculiarly complete system of slavery**, centuries old....”)

<sup>16</sup> “Androcide,” [https://www.wikiwand.com/en/Masculicide#google\\_vignette](https://www.wikiwand.com/en/Masculicide#google_vignette) (stating, “Androcide—the murder of men and boys on the basis of their gender”).

As these biblical accounts are told in the Torah and New Testament as forms of “Jewish law through narratives and storytelling,”<sup>17</sup> they indeed constitute a natural and universal moral law against racial hatred, murder, and genocide (i.e., *jus cogens*).

For instance, the Torah’s account of Pharaoh’s decree to kill the newborn Hebrew boys,<sup>18</sup> and the New Testament’s account of the kill of the “innocent” Jewish boys,<sup>19</sup> give the Black Church in the United States of America—and indeed all humanitarians and Christians of all races and nationalities— every reason to be concerned about the “HEAD OF THE FAMILY STATUS” of African American Fathers, Men, and Boys in the United States of America.<sup>20</sup> Significantly, as Black America’s foremost intellectual of the 20<sup>th</sup> Century and regarded as the “Father of Pan-Africanism,”<sup>21</sup> Du Bois thus advised the Nigerian people that “the ancient faith in communal family and clan” is a “method of protecting the masses.”<sup>22</sup> He made a similar analysis of the role of the Black Church in upgrading and protecting the Black Family in the United States, to wit:

Slavery and the Black Family	W.E.B. Du Bois’ Analysis of the Black Church and the Black Family during early 20th Century
“The slave may be ‘used’ so as to be ‘used up’ in seven years; may be used as a ‘breeder,’ as a prostitute, as a concubine, as a pimp, as a tapster,	“The plague-spot in sexual relations is easy marriage and easy separation. This is no sudden development, nor the fruit of Emancipation. It is

<sup>17</sup> For this Law of Moses is promulgated through a combination of express divine commandments (i.e., the Ten Commandments; the 613 additional Mosaic commandments) as well as divine stories, story-telling, or narratives.

<sup>18</sup> Exodus 1: 8-16.

<sup>19</sup> Matthew 2: 16.

<sup>20</sup> The suppression of this unique and distinct class of American citizens centers largely upon their status as “Head of the Family.” See, e.g., Alexis de Tocqueville, *Democracy in America*, Chapter XVIII: Future Condition of Three Races- Part I (“The negro has no family; woman is merely the temporary companion of his pleasures, and his children are upon an equality with himself from the moment of their birth. Am I to call it a proof of God’s mercy or a visitation of his wrath, that man in certain states appears to be insensible to his extreme wretchedness, and almost affects, with a depraved taste, the cause of his misfortunes? The negro, who is plunged in this abyss of evils, scarcely feels his own calamitous situation. Violence made him a slave, and the habit of servitude gives him the thoughts and desires of a slave; he admires his tyrants more than he hates them, and finds his joy and his pride in the servile imitation of those who oppress him: his understanding is degraded to the level of his soul.”)

<sup>21</sup> “Panaficanism,” *Britanica* (<https://www.britannica.com/topic/Pan-Africanism>) (“Although the ideas of Delany, Crummel, and Blyden are important, the true father of modern Pan-Africanism was the influential thinker W.E.B. Du Bois.”); “W.E.B. Du Bois was the Father of Pan-African Socialism,” Jacobin (<https://jacobin.com/2022/05/w-e-b-du-bois-father-pan-african-socialism-black-reconstruction-history>); “W.E.B. Du Bois- The Father of Pan-Africanism?” *New African Magazine* ([www.newafricanmagazine.com](http://www.newafricanmagazine.com)).

<sup>22</sup> W.E.B. Du Bois, *The World And Africa* (New York, N.Y. : International Publishers, 2015), p. 331.

as an attendant at the gaming-table, as a subject of medical and surgical experiments for the benefit of science, and the Legislature makes no objection against it.” <sup>23</sup>	the plain heritage from slavery.... The Negro church has done much to stop this practice, and now most marriage ceremonies are performed by pastors. Nevertheless, the evil is still deep seated, and only a general raising of the standard of living will finally cure it.” <sup>24</sup>
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And yet the ripping apart of the conjugal relationship of African American men and African American women was a key feature of American slavery (i.e., “slavery” and “slavery-related practices” under the international customary law of *Jus Cogens*).<sup>25</sup>

<b>“Badges and Incidents of Slavery”: Divestiture of Rights of Marriage and Family Status</b>	
<b>No Rights of Marriage/ or to Contract Matrimony</b>  John D. Wheeler, <i>A Practical Treatise of the Law of Slavery</i> (1837)	<u>Cases</u>  • <i>Girod v. Lewis</i> , 6 Martin’s Louisiana Rep. 559 (1819)
<b>No Rights of Protection of Black Wives Against Rape/ Sexual Abuse</b>  Pokorak, Jeffrey J. , "Rape as a Badge of Slavery: The Legal History of, and Remedies for, Prosecutorial Race-of-Victim Charging Disparities," <i>Nevada Law Journal</i> : Vol. 7: Iss. 1, Article 2. (2006), pp. 8-10 (“[f]or most of our nation's history, it was not a crime to rape a Black woman.”)	<u>Cases</u>  • <i>Commonwealth v. Mann</i> , 4 Va. 210 (1820); • <i>State v. Charles</i> , 1 Fla. 298 (1847); and • <i>George v. State</i> , 37 Miss. 316 (1859).

<sup>23</sup> William Goodell, *The Democracy of Christianity, or; An Analysis of the Bible and its Doctrines in Their Relation to the Principles of Democracy* (New York, N.Y.: Cady and Burgess, 1852), p. 327.

<sup>24</sup> W.E.B. Du Bois, “The Souls of Black Folk,” *Writings* (New York, N.Y.: The Library of America, 1986), p. 460-461.

<sup>25</sup> *United States v. Bellaizac-Hurtado*, 700 F.3d 1245, 1261 (11th Cir. 2012)( defining *Jus Cogens* as “‘universality,’ legal issues that involve “slavery and slave-related practices....”)

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Today, the nature of this *jus cogens* violation to the conjugal or marriage relationship between African American men and women may be expressed as a constitutional tort, pursuant to 42 U.S.C. § 1983, and articulated under a number of common-law tort theories, including the following:

**“Common Law Torts (Violation of Black Families During Slavery)”**

**Restatement (Second) of Torts § 683 “Alienation of Wife’s Affections”**

One who, without a privilege to do so, purposely alienates a wife’s affections from her husband, is liable for the harm thereby caused to any of his legally protected marital interests.

**Restatement (Second) of Torts §684 “Inducing a Wife to Separate from or Refuse to Return to Her Husband”**

One who, without a privilege to do so and for the purpose of disrupting the marriage relation, induces a wife to separate from her husband or not to return to him after she has separated from him, is liable to the husband for the harm thereby caused to any of his legally protected marital interests.

**Restatement (Second) of Torts § 685 “Criminal Conversation with a Married Woman”**

One who, without the husband’s consent, has sexual intercourse with a married woman is liable to the husband for the harm thereby caused to any of his legally protected marital interests....  
b. Under the rule stated in this Section, the husband is entitled to recover from anyone who, without his consent, has sexual relations with his wife even though the husband sustains no further loss.

Moreover, the general common law of the United States firmly established the “husband” as the “Head of the Family.”<sup>26</sup> There were three primary features of antebellum civil law that negatively impaired the “Head of the Family” status of African American men in the United States:

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<sup>26</sup> See, generally, Roderick Andrew Lee Ford, *The Head of the Family: Towards a Common Law of the Black Family* [official court document filed in U. S. Federal Courts] at: <https://nebula.wsimg.com/6a1bfd60caea5b5dbc6d9f86782dfbe0?AccessKeyId=CFD051C099636C9F5827&disposition=0&alloworigin=1>

- First, under slavery, civil law negatively impaired the natural rights of African American men to function as “*Husbands*.”
- Second, under slavery, the civil law negatively impaired the natural rights of African American men to function as “*Fathers*.”
- Third, under slavery, white or non-black persons— whether as slave-holders, slave overseers, judges, and (or) lawyers — disproportionately defined, interpreted, and controlled the application of the civil law, which negatively impaired the natural rights of African American men to function as “*Husbands*” and (or) as “*Fathers*.”

But today there was also a residual and secondary feature of the slavery system, which today negatively impairs the “Head of the Family” status of African American men in the United States, namely this: a “custom and usage” of dysfunctional familial relationships that divest African American men of their status and functions as “husbands” and as “fathers.”<sup>27</sup>

- A “custom and usage” of a system of matriarchy developed among the African American people, whereby African American women were taught, under the system of slavery, not to rely upon African American men as the “Head of the Family,” whether as (a) *Husband* or as (b) *Father*.<sup>28</sup>
- Similarly, a “custom and usage” of a system of matriarchy encouraged African American men to perform sexually, to mate, and to procreate, as under the system of slavery, but to also shun responsibility as the “Head of the Family.”<sup>29</sup>
- During the period of Jim Crow and throughout the 20<sup>th</sup> century, de jure racial discrimination and various economic pressures upon the Black Family helped to perpetuate this “custom and usage” of dysfunction among African American men and women.<sup>30</sup>

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<sup>27</sup> See, generally, Roderick Andrew Lee Ford, The Head of the Family: Towards a Common Law of the Black Family [official court document filed in U. S. Federal Courts] at: <https://nebula.wsimg.com/6a1bfd60caea5b5dbc6d9f86782dfbe0?AccessKeyId=CFD051C099636C9F5827&disposition=0&alloworigin=1>; see, also, Shani M. King, “The Family Law Canon in a (Post?) Racial Era,” 72 Ohio St. L.J. 575 (2011), available at <http://scholarship.law.ufl.edu/facultypub/232>; and see, also, Richard Ralph Banks, *Is Marriage For White People: How The African American Marriage Decline Affects Everyone* (New York, N.Y.: Penguin Group, 2011).

<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> Id.

- During the late 20<sup>th</sup> century, public welfare policies helped to perpetuate this “custom and usage” of dysfunction among African American men and women—expressly deprecating the natural status of African American men as the “Head of the Family,” whether as (a) *Husband* or as (b) *Father*.<sup>31</sup>
- The perpetuation of this “custom and usage” of divesting African American men of their “Head of the Family” status as “husbands” or “fathers” are expressly proscribed under the Thirteenth Amendment and the Civil Rights Act of 1866.
- The perpetuation of this “custom and usage” of divesting African American men of their “Head of the Family” status as “husbands” or “fathers” are expressly proscribed under the Thirteenth Amendment and the Civil Rights Act of 1871.<sup>32</sup>

The perpetuation of this “custom and usage” of divesting African American men of their “Head of the Family” status as “husbands” or “fathers” may be expressly proscribed as a violations of *jus cogens* (i.e., “slavery” or “slave-related practices”<sup>33</sup> which restricts the

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<sup>31</sup> Id.

<sup>32</sup> See, e.g., *Paul v. Davis*, 424 U.S. 693, 712-714 (1976); *Carroll by Carroll v. Parks*, 755 F.2d 1455, 1457 (11th Cir. 1985); *City of North Miami v. Kurtz*, 653 So.2d 1025, 1027 (Fla. 1995)(“The federal privacy provision... extends to such fundamental interests as marriage, procreation, contraception, family relationships, and the rearing and educating of children. *Carey v. Population Serv. Int'l*, 431 U.S. 678, 97 S.Ct. 2010, 52 L.Ed.2d 675 (1977)...”)

<sup>33</sup> *United States v. Bellaizac-Hurtado*, 700 F.3d 1245, 1261 (11th Cir. 2012)( defining *Jus Cogens* as “‘universality,’ legal issues that involve “**slavery and slave-related practices**... have thus far been identified as supporting universal jurisdiction”) (citing “Restatement (Third) of Foreign Relations Law § 404 (1987) (recognizing that universal jurisdiction applies only to “prescribe punishment for certain offenses recognized by the community of nations as of universal concern, such as piracy, slave trade, attacks on or hijacking of aircraft, genocide, war crimes, and perhaps certain acts of terrorism”).

“manhood,”<sup>34</sup> “husbandhood,”<sup>35</sup> and “fatherhood”<sup>36</sup> rights Black men ) under customary international law<sup>37</sup> and international treaty law.<sup>38</sup>

Since U.S. District Courts must apply international principles of *jus cogens* to federal statutory law, such as the Civil Rights Acts of 1866 and 1871, where applicable,<sup>39</sup> Du Bois’ interpretation of the Torah would naturally convert these federal courts into “public synagogues”<sup>40</sup> or “government churches,”<sup>41</sup> whereby the Black church and African American

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<sup>34</sup> Daniel P. Black, *Dismantling Black Manhood: An Historical and Literary Analysis of the Legacy of Slavery* (London and New York: Garland Publishing, Inc., 1997).

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<sup>35</sup> Id.

<sup>36</sup> Id.

<sup>37</sup> Indeed, the right to a remedy for international human rights violations has attained the status of customary international law. See U.N. Basic Principles on the Right to a Remedy, Principles I.1(b) and 2; *Prosecutor v. Andre Rwanmkuba*, Case No. ICTR-98-44C, Decision on Appropriate Remedy, ¶ 40 (Jan. 31, 2007); *Prosecutor v. Andre Rwanmkuba*, Case No. ICTR-98-44C-A, Decision on Appeal Against Decision on Appropriate Remedy, ¶¶ (Sept. 13, 2007); *Cantoral-Benavides v. Peru*, 2001 Inter-Am. Ct. H.R. (ser. C) No. 88, ¶ (Dec. 3, 2001); *Customary International Humanitarian Law*, Vol. 1: Rules 537-50 (Jean-Marie Henckaerts & Louise Doswald-Beck, eds. 2005).

<sup>38</sup> See, e.g., European Convention for the Protection of Human Rights and Fundamental Freedoms art. 13, Nov. 4, 1950, 213 U.N.T.S. 222 [hereinafter ECHR]; African Charter on Human and People’s Rights art. 7(1)(a), adopted June 27, 1981, 1520 U.N.T.S. 217; League of Arab States, Arab Charter on Human Rights art. 23, May 22, 2004, reprinted in 12 INT’L HUM. RTS. REP. 893 (2005); Universal Declaration on Human Rights, G.A. Res. 217A(III), art. 8, U.N. Doc. A/810 (Dec. 10, 1948); American Declaration on the Rights and Duties of Man arts. 17-18, O.A.S. Res. XXX, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OAS/Ser.L/V/I.4 Rev. 9 (2003), etc.

<sup>39</sup> See, e.g., Restatement (Third) of Foreign Relations Law § 702(c) (Am. L. Inst. 1987)(“The customary law of human rights is part of the law of the United States to be applied as such by State as well as federal courts.”). *Lawrence v. Texas*, 539 U.S. 558, 576 (2003); *Thompson v. Oklahoma*, 487 U.S. 815, 831 n. 34 (1988); *Roper v. Simmons*, 543 U.S. 551, 579 (2005).

<sup>40</sup> See, e.g., “Jesus in the Synagogue,” <https://www.biblicalarchaeology.org/magazine/jesus-in-the-synagogue/>, stating:

The most obvious function of synagogues is exactly what the archaeological evidence has shown: Synagogues were places of assembly and discussion for communities. As premier gathering places, synagogues that belonged to the municipality were political institutions, much like town halls, as much as they were religious institutions (see in the Mishnah, e.g., Nedarim 5:5). These are what some scholars call “public synagogues.” 5 A clear example of a public synagogue in the New Testament would be the synagogue at Nazareth mentioned in Luke 4:16–30 (cf. Mark 6:1-6).

<sup>41</sup> Id.

clergymen must be called to preach and to advocate social justice through the primary means of legal advocacy.

## Part I. “Androicide in the Torah (Law of Moses)”

In other words, Du Bois would likely have endorsed the Black church’s becoming more Jewish through advocating for a progressive moral law in order to abate the decline and fall of the African American family. Indeed, whenever, if ever, the Black Church turns to the Torah as the moral foundations upon which it asserts constitutional and legal claims (e.g., *jus cogens*), the Black church will certainly stand upon the same legal foundations as set forth in ancient Hebrew and Jewish legal traditions, which hold that:

“the Torah of the Jews is... a basis for social, political, and religious life”;<sup>42</sup>

“the Torah has an equal concern for behavior in communal affairs, like the court system, employee/employer relations, and property rights”;<sup>43</sup> and,

“a judge and his court are surrogates for God’s judgments....”<sup>44</sup>

And because the Torah holds generally that all of humanity was made in the “**image of God**” (Genesis 9:6; Noahic covenant), all of humanity has certain unalienable rights that are, in essence, the foundation of international human rights.<sup>45</sup> Here, the 19<sup>th</sup>- and early 20<sup>th</sup>- century Jewish immigrants to the United States found the same principles in the American Declaration of Independence (1776).<sup>46</sup>

The plight of the Black family in the United States is today of dire importance, as it was when Dr. Du Bois published *Black Reconstruction in America* in 1935. But the Black church of the United States— without trained leadership in law in a manner similar to that of their Jewish counterparts— may have misconstrued the Holy Bible (i.e., Torah) largely because it has inadvertently rejected experienced lawyers and esteemed doctors of philosophy in the sciences as

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<sup>42</sup> Arthur Kurzweil, *The Torah* (Hoboken, N.J.: Wiley Publishing, Inc., 2008), p. 1.

<sup>43</sup> Id., p. 5.

<sup>44</sup> Id., p. 161.

<sup>45</sup> Fiona de Londras, “The Religiosity of Jus Cogens: A Moral Case For Compliance?” Javaid Rehman and Susan C. Breau (eds), *Religion, Human Rights and International Law* (Netherlands: Koninklijke Brill NV, 2007)(Chapter 9)(“[t]here can be little doubt that the initial stages of rights protections in international law were influenced by Judeo-Christian principles of human dignity.”)

<sup>46</sup> Jerold S. Auerbach, *Rabbis and Lawyers: The Journey from Torah to Constitution* (New Orleans, LA: Quid Pro Books, 2010), p. 15 (“So American Jews became the last Puritans; the last Americans, that is, to take seriously the claim that the United States truly was the fulfillment of divine promise to Israel.”)



*bona fide* clergymen. Against this tendency, Du Bois long sought reform from within the Black church, stating:

I now turn to the Christian ministry with something of diffidence. The development of the Negro church has been so extraordinary, and of such deep sociological interest that its future course is a matter of great concern. As it is now, churches organized among Negroes are, for the most part, curiously composite institutions, which combine the work of churches, theatres, newspapers, homes, schools, and lodges. As a social and business institution the church has had marvelous success and has done much for the Negro people. As a religious institution, also, it has played some part, but it is needless to say that its many other activities have not increased the efficiency of its function as a teacher of morals and inspirer of the high ideals of Christianity. An institution so popular that there is now in the United States one organization for every sixty Negro families, has, naturally, already attracted to its leadership a vast army of men. Moreover, the severest charge that can be brought against the Christian education of the Negro in the South during the last thirty years, is the reckless way in which sap-headed young fellows, without ability, and, in some cases, without character, have been urged and pushed into the ministry. It is time now to halt. It is time to say to young men like you: **Qualifications that would be of no service elsewhere are not needed in the church;** a general desire to be good, joined to a glib tongue, is not the sort of combination that is going to make the Negro people stop stealing and committing adultery. And, instead of aimless, wholesale invitations to enter this calling of life, we need to put our hands kindly on the shoulders of some young candidates, and tell them firmly that they are not fitted to be heads of the church of Christ. What we need is not more but fewer ministers, but in that lesser number **we certainly need earnest, broad, and cultured men;** men who do a good deal more than they say; men of broad plans and far-seeing thought; men who will extend the charitable and rescue work of the churches, encourage home getting, guard the children of the flock, not on Sundays, but on week days, make the people use savings banks, and, in find, men who will really be active agents of social and moral reform in their communities. There, and there only, is the soil which will transform the mysticism of Negro religion into the righteousness of Christianity.

There is then an opening for college men in this field, but it is a field to be entered with more care than others, not with less; to be chosen by men of more stable character than others, not of less; and it is the one field where the man who doubts his fitness had best give the world the benefit of the doubt. But to those consecrated men who can and will place themselves to-day at the head of Negro religious life and guide this wavering people to a Christianity pure and holy and

true—to those men in the day of reckoning shall surely come the benediction of a useful life, and the ‘Well done!’ Of the Master.<sup>47</sup>

In his “The Revelation of Saint Orgne the Damed,” Dr. Du Bois urged “the Negro church” to move beyond “the Hebrew scriptures and the New Testament canon” in order to grapple with “real ethical questions. When is it right to lie? Do low wages mean stealing? Does the prosperity of a country depend upon the number of its millionaires? Should the state kill a murderer? How much money should you give to the poor? Should there be any poor? And as long as there are, what is crime and who are the criminals?”<sup>48</sup> Here, Du Bois clearly wanted the Black church and African American clergymen to function much like the Synagogue and the Jewish rabbis and theologians who conceptualize Torah as grappling with the every essence of sort of ethical questions that Du Bois then presented to the Black Church.<sup>49</sup>

Therefore, I believe that Du Bois would have wanted today’s Black Church to conceptualize their Holy Bible as Jews conceptualize the Torah. Indeed, in the Torah and under orthodox Jewish law, the institution of “marriage,” in which man is “Head of the Family,” is itself the “image of God.”<sup>50</sup> Within the text of the Torah, there is a general principle of nature which explains clearly that when two nationalities become belligerent, the nature of their conflict often takes on forms of “androcide,” that include the systematic decimation of the “image of God.” That is to say, the nature of the racial discrimination or racial oppression against one group by another group often takes on the form of *sexualized violence*, *sexualized discrimination*, or *sexualized oppression* directed against men and boys (i.e., androcide), and the destruction of “marriage” or “family” (i.e., the “image of God”) depending upon the context or the specific objectives of the oppressing group.

#### **A. “Androcide in the Old Testament Law”**

How might the Black church reimagine the Holy Bible as the Jews have reimagined “Torah” over the past several centuries? In the Old Testament, the most frequent type of gendercide occurred in the form of “androcide” or the targeted oppression or killing of men and boys of a particular despised nationality or racial or ethnic group. For instance, in the Book of Exodus, we find the narrative of Pharaoh and the Egyptians oppressing the Hebrew people.

The Egyptians became insecure upon realizing that the Hebrew people were increasing in number; they thus oppressed them with rigorous and hard labor. But when this oppression still

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<sup>47</sup> Du Bois, “Careers Open to College-Bred Negroes,” *Writings*, supra, pp. 837 – 838.

<sup>48</sup> Du Bois, *Writings*, supra, p. 1059.

<sup>49</sup> Id, p. 1059.

<sup>50</sup> See, e.g., Footnotes # 1 and #2, above.

did not stop the steady growth in the Hebrew population, the king of Egypt ordered that all newborn Hebrew baby boys—not the girls—be killed, thrown in the Nile River, etc.

#### Exodus 1: 8 - 22

<sup>8</sup> Then a new king, to whom Joseph meant nothing, came to power in Egypt. <sup>9</sup> “Look,” he said to his people, “the Israelites have become far too numerous for us. <sup>10</sup> Come, we must deal shrewdly with them or they will become even more numerous and, if war breaks out, will join our enemies, fight against us and leave the country.”

<sup>11</sup> So they put slave masters over them to oppress them with forced labor, and they built Pithom and Rameses as store cities for Pharaoh. <sup>12</sup> But the more they were oppressed, the more they multiplied and spread; so the Egyptians came to dread the Israelites <sup>13</sup> and worked them ruthlessly. <sup>14</sup> They made their lives bitter with harsh labor in brick and mortar and with all kinds of work in the fields; in all their harsh labor the Egyptians worked them ruthlessly.

<sup>15</sup> The king of Egypt said to the Hebrew midwives, whose names were Shiphrah and Puah, <sup>16</sup> “When you are helping the Hebrew women during childbirth on the delivery stool, **if you see that the baby is a boy, kill him; but if it is a girl, let her live.**” <sup>17</sup> The midwives, however, feared God and did not do what the king of Egypt had told them to do; they let the boys live. <sup>18</sup> Then the king of Egypt summoned the midwives and asked them, “Why have you done this? Why have you let the boys live?”

<sup>19</sup> The midwives answered Pharaoh, “Hebrew women are not like Egyptian women; they are vigorous and give birth before the midwives arrive.”

<sup>20</sup> So God was kind to the midwives and the people increased and became even more numerous. <sup>21</sup> And because the midwives feared God, he gave them families of their own.

<sup>22</sup> Then Pharaoh gave this order to all his people: **“Every Hebrew boy that is born you must throw into the Nile, but let every girl live.”**

Here we are not to understand that men or boys are targeted for no apparent reason, when, in nature and through the laws of warfare, the male population in targeted groups is often labeled as the source of danger and potential belligerent rebellion and reprisal. “Men and boys are not solely targeted because of abstract or ideological hatred. Rather, male civilians are often targeted during warfare as a way to remove those considered to be potential combatants, and

during genocide as a way to destroy the entire community.”<sup>51</sup> The birth of Moses thus occurred under such conditions of androcide (i.e., the targeted killings of Hebrew baby boys) for political reasons.

## B. “Androcide in the New Testament Law”

Similarly, the birth of Christ occurred under similar circumstances as did the birth of Moses. In fact, one of King Herod’s most ferocious acts was to have the last scion of the Hasmonean dynasty, who was the High Priest, killed, because Herod feared his political influence and popularity with the Jewish people, to wit:

To secure himself against danger from [the last scion of the Hasmonean royal house and High Priest, Aristobulus III (53 – 36 BC)] Herod instituted a system of espionage against him and his mother. This surveillance proved so onerous that they sought to gain their freedom by taking refuge with Cleopatra. As told by the Roman Jewish historian Josephus, their plans were betrayed and the disclosure had the effect of greatly increasing Herod's suspicions against his brother-in-law. As Herod dared not resort to open violence, he caused him to be drowned while he was bathing in a pool in Jericho during a banquet organized by Aristobulus' mother.<sup>52</sup>

Thus, Herod the Great created a ruling religious class of Jewish priests that was loyal to both the Herodian kings and the Roman empire.<sup>53</sup> This means that the Jewish priesthood during the time of Christ’s birth, and for the next three decades during his lifetime, was Herodian and pro-Roman. The political implications of Jesus’s spiritual kingdom—though misunderstood at the time by Jewish and Roman authorities—was a direct threat to King Herod and the Herodian-Roman political system in Judea.

The Gospel of Matthew’s description of King Herod the Great, and the historical account of the times in which Jesus was born, are credible, since they correlate perfectly with the historical records and secular descriptions of the same personalities and time period.

The Gospel of Matthew, for instance, states that “[w]hen Herod realized that he had been outwitted by the Magi, he was furious, and he gave orders to **kill all the boys in Bethlehem** and its vicinity who were two years old and under, in accordance with the time he had learned from

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<sup>51</sup> “Androcide,” [https://www.wikiwand.com/en/Masculicide#google\\_vignette](https://www.wikiwand.com/en/Masculicide#google_vignette) (stating, “Androcide—the murder of men and boys on the basis of their gender”).

<sup>52</sup> Source: “Aristobulus III of Judea,” Wikipedia (online encyclopedia): [https://en.wikipedia.org/wiki/Aristobulus\\_III\\_of\\_Judea](https://en.wikipedia.org/wiki/Aristobulus_III_of_Judea)

<sup>53</sup> Id.

the Magi.”<sup>54</sup> This description of Herod the Great correlates with the historical records of his other devious tendencies and drastic measures to secure his own political position, authority, and influence. Herod the Great’s reputation was so dangerous, that even Joseph and Mary, the proud parents of Jesus, did not trust Herod’s son, Herod Archelaus (Ethnarch of Judea)(4 – 6 AD), and refused to return to Judea, but instead settled in Galilee, in the town of Nazareth.<sup>55</sup>

Thus relying upon the political theology of the Sacred Scriptures, we find that “**androcide**” was employed to target **men and boys** who are actual or potential threats to the established political order, power structure, polity or civil government, or particular civil magistrates and authorities.

### C. “Androcide in other World History”

The international status of the plight of African American men, husbands, and fathers in the United States can only be rightfully understood through the lens of the Law of Nations governing war and peace between diverse groups of peoples.

That Law of Nations consists of common codes of behavior stemming from the laws of nature. In the long sage of human history, the laws of nature are manifest, and this we find stated plainly in the Sacred Scriptures, as in Psalm 19 (“*The heavens declare the glory of God; and the firmament sheweth his handywork....*”).

And here, the Law of Nations (e.g., the law of war and warfare, the law of slavery and the treatment of enemy combatants, etc.) demonstrates that throughout human history the primary cause of war has been male-to-male competition and conflict; and the primary forms of warfare have been between male-to-male combatants, often leading to organized and sustained forms of androcide (i.e., the gendercide of men).<sup>56</sup>

Between two groups of warring peoples, where one group is predominant and victorious over the other, then the subordinate-group males typically become the targets of physical, economic, and other similar forms of oppression and abuse, and this can form the basis of intergenerational conflict and on-going oppression .

In the most extreme cases, “**androcide**” (i.e., the targeted killing of subordinate-group males) is often the result. Many examples from world history plainly demonstrate that when two groups of peoples are in various forms of economic, political, or social conflict—such as

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<sup>54</sup> Matthew 2:16.

<sup>55</sup> Matthew 2:20-23.

<sup>56</sup> “Gendercide,” <https://www.gendercide.org/>

European Americans and African Americans in the Western hemisphere – the male population within the subordinate group (i.e., the ***Black male population***) often experiences racial discrimination and racial oppression that is different and distinct in kind and degree from the adverse treatment received by the females (i.e., the ***Black female population***) within that subordinate-group population.<sup>57</sup>

## Part II. Androicide in African American History

### A. Androicide: “*The 1951 U.N. Petition: We Charge Genocide*”

The nature of anti-Black androicide, or anti-Black misandry, was manifest in state codes on (a) marriage and (a) the strict prohibition of sexual relations between white women and African American men, often enforced formally through state or local courts, informally through lynchings, or a combination of both. For this reason, dozens of American citizens, including Dr. Du Bois, filed a petition to the United Nations in 1951, titled “*We Charge Genocide!*”<sup>58</sup>

This 1951 UN dossier pointed out that there were very different state laws, state customs, and local rules that were utilized in the Southern state courts to govern and regulate:

#### AFRICAN AMERICAN MALES

The focus of the South’s state laws was thus described as targeting—in violation of the Convention on the Crime of Genocide (1948)-- one specific sector of the American population, namely, that of African American males.

White Males	Black Males
White Females	Black Females

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<sup>57</sup> In the 21<sup>st</sup> century, the undersigned author surmises that one major form of group oppression so the *destruction of family life or the institution of the Black family*, together with the *reversal of sex roles* between Black men and Black women—thus creating the ultimate proverbial Babylonian confusion—with the oppressed Black population. See, e.g., Ralph Richard Banks, *Is Marriage For White People: How the African American Decline Affects Everyone* (New York, N.Y.: Dutton/ Penguin Group, 2011).

<sup>58</sup> For these reasons, William Patterson, Paul Robeson, W.E.B. Du Bois and dozens of leading African American citizens from throughout the United States directly petitioned the United Nations, filing a 246-page dossier providing in-depth analysis, details, and supplementary evidence demonstrating how state and federal officials, as well as private citizens, who often acted under color of law, committed numerous acts of atrocities and genocide against the African American people.

This 1951 UN dossier was filed pursuant to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. This dossier cited the pivotal fact that the prohibition of interracial marriage and the enforcement of anti-miscegenation laws in the South were the foundational basis for sexual oppression and murder of African American males (elderly men, middle-age men, young men, and boys, etc.). This dossier also pointed out that state statutes preventing the intermarriage of whites and blacks constituted a hidden “gimmick for carrying out the original White League plan of Black Code justice.”<sup>59</sup> Under these conditions, the 1951 UN dossier reported that the crime of “rape of white women by black men” was elevated to the status of a regional pandemic in the South, and utilized to justify their widespread sexual control and lynching.<sup>60</sup> With this background in mind, the 1951 UN dossier’s voluminous “Evidence,”<sup>61</sup> regarding the killing of innocent African Americans (mostly men) from between the period 1890 and 1945 must be placed into its constitutional and legal proper perspective: **marriage laws and anti-miscegenation laws have been applied and utilized by state officials and state courts to justify anti-Black androicide**, and such application has been tacitly approved by the United States Supreme Court.

### B. Androicide: “*The Moynihan Report*”

The *jus cogens* principles which are contained within the Torah are also reflected in an analysis of the regulation of the Black family during slavery. For example, Daniel Patrick Moynihan has written that a system of “matriarchy” has been “enforced” upon the African American community, with “crushing” consequences for African American males.<sup>62</sup>

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<sup>59</sup> Id., pp. 226 – 228.

<sup>60</sup> Id., pp. 149- 150.

<sup>61</sup> Id., p. 25 (“Terror was unleashed against them at home—there were 1,955 recorded lynchings from 1889 through 1901, according to the minimal count of Tuskegee Institute.”) Ibid, p. 150 (“But since the 1890’s, thousands of Negroes have been lynched and ‘legally’ executed on the basis of race on the spurious charge of ‘rape’....”)

See, also, Aaron Oneil, “Number of lynchings in the U.S. by state and race 1882-1968,” <https://www.statista.com/statistics/1175147/lynching-by-race-state-and-race/>

<sup>62</sup> See, e.g., Moynihan, Daniel P. *The Negro family: The Case for National Action*. Washington, DC: Office of Policy Planning and Research, U.S. Department of Labor (March 1965), stating:

It was by **destroying the Negro family under slavery** that white America broke the will of the Negro people....

When **Jim Crow** made its appearance towards the end of the 19th century, it may be speculated that it was **the Negro male who was most humiliated** thereby.... Keeping the Negro ‘in his place’ can be translated as **keeping the Negro male in his place: the female was not a threat** to anyone....

In other words, Black matriarchy, which was initially orchestrated by the system of chattel slavery,<sup>63</sup> has been a vital component to the systematic divestiture of the paternal status of African American men as “Head of the Family.”<sup>64</sup> In the United States, the Black family was intentionally dismantled and oppressed in order to promote the institution of slavery and racial discrimination:

“[P]erhaps the greatest curse which slavery inflicted upon us was the destruction of the home.”

-- **Bishop Daniel Payne (A.M.E. Church)**<sup>65</sup>

“It was by destroying the Negro family under slavery that white America broke the will of the Negro people.”

-- **Assistant Sec. of Labor Daniel Moynihan**<sup>66</sup>

In the United States, the “Moynihan Report” documented the intentional dismantling and oppression of African American fatherhood, men, and boys:<sup>67</sup>

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<sup>63</sup> See, e.g., “Partus Sequitur Ventrem,” *Wikipedia* Encyclopedia (Online):  
[https://en.wikipedia.org/wiki/Partus\\_sequitur\\_ventrem](https://en.wikipedia.org/wiki/Partus_sequitur_ventrem)

<sup>64</sup> See “**Marriage of Enslaved People (United States)**,”  
[https://en.wikipedia.org/wiki/Marriage\\_of\\_enslaved\\_people\\_\(United\\_States\)](https://en.wikipedia.org/wiki/Marriage_of_enslaved_people_(United_States))

And see “**African American Family Structure**,”  
[https://en.wikipedia.org/wiki/African-American\\_family\\_structure](https://en.wikipedia.org/wiki/African-American_family_structure)

And see “**Black Matriarchy**”  
[https://en.wikipedia.org/wiki/Black\\_matriarchy](https://en.wikipedia.org/wiki/Black_matriarchy)

<sup>65</sup> Source: Daniel P. Black, *Dismantling Black Manhood*, supra, p. 165.

<sup>66</sup> Source: Moynihan, Daniel P. *The Negro family: The Case for National Action*. Washington, DC: Office of Policy Planning and Research, U.S. Department of Labor (March 1965).

<sup>67</sup> See, e.g., Daniel Patrick Moynihan’s 1965 Report on the Black Family, stating: “[i]t was by destroying the Negro family under slavery that white America broke the will of the Negro people,” and “[w]hen Jim Crow made its appearance towards the end of the 19th century, it may be speculated that it was the Negro male who was most



### **The Moynihan Report - 1965 (Summary Description)**

“The Moynihan Report, written by Assistant Secretary of Labor, Daniel Patrick Moynihan, initiated the debate on whether the African-American family structure leads to negative outcomes, such as poverty, teenage pregnancy and gaps in education or whether the reverse is true and the African American family structure is a result of institutional discrimination, poverty and other segregation. Regardless of the causality, researchers have found a consistent relationship between the current African American family structure and poverty, education, and pregnancy.

“According to C. Eric Lincoln, the Negro family's ‘enduring sickness’ is the absent father from the African-American family structure.

“C. Eric Lincoln also suggests that the implied American idea that poverty, teen pregnancy, and poor education performance has been the struggle for the African-American community is due to the absent African-American father. According to the Moynihan Report, the failure of a male dominated subculture, which only exist in the African-American culture, and reliance on the matriarchal control has been greatly present in the African-American family structure for the past three centuries. This **absence of the father**, or ‘mistreatment,’ has resulted in the African-American crime rate being higher than the National average, African-American drug addiction being higher than whites, and rates of illegitimacy being at least 25% or higher than whites.

“A family needs the presence of both parents for the youth to ‘learn the values and expectations of society.’”

**Source:** “African American Family Structure,” Wikipedia (Online encyclopedia)

### **Conclusion**

At times, but only sporadically, W.E.B. Du Bois demonstrated a superb understanding of spiritual and ecclesiastical matters; and it seems that, had he been a bishop in one of the great African American churches, that he could have seriously influenced Black Christian thought in the same way that Augustine of Hippo (354 – 430 AD) and Thomas Aquinas (1225 – 1274) had influenced the Catholic Church. But Du Bois seems to have felt that his calling was in science, not theology or church leadership. Nevertheless, Du Bois might have had a far greater, longer-lasting legacy had he followed in the footsteps of clergymen such as Rev. Alexander Crummel (Episcopal), Bishop Daniel Payne (AME), and Bishop Henry McNeil Turner (A.M.E.). By the

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humiliated thereby.... Keeping the Negro ‘in his place’ can be translated as keeping the Negro male in his place: the female was not a threat to anyone.”

same token, the Black church of the twentieth century would have had a far greater influence upon law, government, education, and civil rights, had it enlisted secular scholars such as Dr. Du Bois into its clergy ranks. Du Bois likely would have helped the Black church to better conceptualize the Holy Bible of the Black church as “Torah,” or as practical “Law,” in a similar manner in which the Jews have understood it for many centuries.

When Dr. Du Bois published *Black Reconstruction in America* in 1935, the crime of lynching among the black population in the United States was acute. Today, one might safely argue that mass incarceration and police brutality against African American males are modern-day phases of *androcide*— leading to the decline and fall of the Black family in the United States. Accordingly, if Du Bois was alive today, I can imagine him admonishing the Black church to find within the pages of their Holy Bibles some philosophical basis for thinking creatively about new modes of social justice— nay, thinking outside of the box of conventional theological or ecclesiastical norms. Ninety years after his publication of *Black Reconstruction in America*, Du Bois would likely admonish today’s Black church to seek self-sufficiency, self-preservation, and self-reliance, while finding within the pages of the Torah new modes of “customary family laws” designed specifically to preserve wholesome black marriages and family life, through modes of church-operated law courts similar to the Jewish Beit Dins (“houses of law or judgment”). Here, the Black church can take the lead, without government initiatives, in abating the effects of many human rights abuses such as androcide upon their communities. And the Black church can take the lead through becoming more proactive in sponsoring family law justice initiatives through establishing their own church-operated law courts that are designed exclusively for the purpose of ameliorating the plight of African American family life.

**--- The End ---**

## Bibliography

- Banks, Ralph Richard. *Is Marriage For White People: How the African American Decline Affects Everyone*. New York, N.Y.: Dutton/ Penguin Group (2011).
- Black, Daniel P. *Dismantling Black Manhood: An Historical and Literary Analysis of the Legacy of Slavery*. London and New York: Garland Publishing, Inc. (1997).
- Cone, James H. and Gayraud S. Wilmore. *Black Theology: A Documentary History*. Vol. One: 1966- 1979. Maryknoll, N.Y.: Orbis Books (2003).
- Du Bois, W.E.B. *Black Reconstruction in America*. New York, N.Y.: Harcourt, Brace & Co. (1935).
- Du Bois, W.E.B. "Nigeria." *The World and Africa*. New York, N.Y.: International Publishers (2015).
- Du Bois, W.E.B. "The Conservation of Races." *Writings*. New York, N.Y.: The Library of America (1986).
- Du Bois, W.E.B. "The Dusk of Dawn." *Writings*. New York, N.Y.: The Library of America (1986).
- Du Bois, W.E.B. "The Souls of Black Folk." *Writings*. New York, N.Y.: The Library of America (1986).
- Du Bois, W.E.B. *The World and Africa*. New York, N.Y. : International Publishers (2015).
- Goodell, William. *The Democracy of Christianity, or; An Analysis of the Bible and its Doctrines in Their Relation to the Principles of Democracy*. New York, N.Y.: Cady and Burgess (1852).
- Kurzweil, Arthur. *The Torah* (Hoboken, N.J.: Wiley Publishing, Inc., 2008), p. 1.
- Lincoln, Eric and Lawrence H. Mamiya. *The Black Church in the African American Experience* (Durham, N.C.: Duke University Press (1990).
- Londras, Fiona de. "The Religiosity of Jus Cogens: A Moral Case For Compliance?" *Religion, Human Rights and International Law* (Netherlands: Koninklijke Brill NV, 2007).
- Moynihan, Daniel P. *The Negro family: The Case for National Action*. Washington, DC: Office of Policy Planning and Research, U.S. Department of Labor (March 1965).
- Scripturally Annotation of the Universal Declaration of Human Rights*. The Carter Center, One Copenhill, 453 Freedom Parkway, Atlanta, Georgia 30307.
- Woodson, Carter G. *The History of the Negro Church*. Washington, D.C.: The Associated Publishers (1921).

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