

H-Net Reviews

in the Humanities & Social Sciences



Amistad. DreamWorks SKG.

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Published on H-Law (December, 1997)

This is a review in two parts. The first part of this review covers the film's content and offers some evaluation of its utility for the classroom and its portrayal of legal events in the *Amistad* case. The second part is about how the film *Amistad* has been marketed as history, and it addresses the use and abuse of historical material for film-making purposes.

Part One: Film Content and Accuracy

Amistad begins with the event that made that ship's history different from other slave ships: the gradual extraction of a nail from the ship which allowed Cinque (also known as Sengbe) to free first himself and then the other slaves on board. The first ten minutes are designed to evoke stark terror, as the freed slaves attack their Spanish captors, slicing their throats and killing all but two of the ship's sailors, who they keep alive in order to sail back to Africa. The sailors' trick of sailing east by day and west by night eventually brings the *Amistad* to the coast of New York; there it is boarded by an American sailor and taken to Connecticut, where Cinque and his band are jailed. Lewis Tappan and a fictional character, Theodore Joadson (an African-American abolitionist), join forces to promote the cause of the *Amistad* captives; they are aided by Roger Baldwin, portrayed as an ambulance-chasing money-grubbing attorney who tries property cases and who sees the slaves, at least initially, as simply a different form of property dispute. Tappan and Joadson are not initially eager to have the assistance of Baldwin, but they accept his legal efforts in the end, and he proves persuasive enough to win the first two trials. Through the course of those two trials, Baldwin's attitudes change toward Cinque and the Africans, and by the picture's end he has become a committed abolitionist.

The initial trial is before a Connecticut judge and jury with claims presented by the Spanish slavers (rightful owners of Cuban-born slaves with a bill of sale), the American sailors (salvage on the high seas), and the U.S. govern-

ment (honoring their 1795 treaty obligations to return the ship and slaves to the Spanish government); lurking in the background is a Spanish diplomat who intends to see the slaves returned to Cuba to be executed for murder. Initial efforts to speak with Cinque and the other *Amistad* survivors fail, as a blundering linguist cannot help the lawyers understand what the Africans are saying. Without direct testimony from the slaves themselves to help their case, Baldwin and Joadson search the *Amistad* looking for physical evidence to show that the ship came from Africa. Baldwin finds documents that seem to prove the ship originated in Africa and not in Cuba, which would show that the Africans were not born on plantations (thus, legally considered Spanish slaves whose ship had strayed into American waters), but rather that they had been captured in Africa and were the fruits of the illegal international slave trade.

By the time the first trial nears its conclusion, the events of the *Amistad* have gained national and international prominence: when first shown, Martin Van Buren is campaigning for reelection from the back of a railroad car, dismissing the *Amistad* affair, but now he will get the first trial judge to recuse himself so that the president can hand pick his successor. He chooses a young judge named Coughlin, whose ambition and political sentiments are so great that theoretically he should be easy to influence regarding the case's outcome (allowing the national government to return the *Amistad* captives to Spain with expedition, defusing any international or north-south tension). The abolitionists sense that in this new trial the deck has been stacked against them, and they appeal to ex-President John Quincy Adams, who turns them down. Isabella II writes numerous letters to the United States protesting that the slaves must be returned, and Van Buren is counseled that John C. Calhoun is threatening that Civil War may be the outcome if the case is not resolved in a pro-slavery fashion.

During the second trial, Baldwin

and Joadson learn how to count in the Mende language, and they find a British/Mende sailor who speaks both English and Mende and who is willing to serve as a translator for Cinque and the other Amistad slaves. Through this interpreter (and flashbacks), Cinque is able to describe how he was taken captive near his village, taken to the slave fortress Lomboko in Sierra Leone and then put on a slave ship and taken to Cuba. He describes the systematic brutalization of the slaves, including the casual murder of fifty slaves who were tossed overboard when the Spaniards discovered they would not have enough food to keep all their captives alive for the entire Atlantic journey. The prosecutor openly doubts Cinque's claims, and gets him to admit that the Mende also keep slaves and that slavery has been known in Africa for generations. However, through Cinque's testimony, Baldwin, the judge, and others come to sense the horrors that the slaves have encountered, and, despite his political ambitions, Coughlin the judge rules that the Amistad survivors should be given their freedom and returned to Africa, while the slavers should be jailed for murder. Apparently, Cinque and the Africans will get their freedom, but the government (at the behest of Van Buren) appeals the case to the Supreme Court. After almost two hours in the film, Baldwin and Joadson appeal to John Quincy Adams for help again, but this time he decides to assist them. Communicating through his interpreter, Cinque sends a series of legal questions about jurisdiction and international treaties to Baldwin and Adams, provoking Adams to angrily request that Cinque be brought to meet him; the two men form a bond, and Cinque accompanies Adams and Baldwin to the Supreme Court trial. Cinque tells him that at this last trial, he will call for his ancestors to be present and help him. <p> In Washington, only one side of the case is presented: that of the Amistad captives. Baldwin looks on as Adams speaks to the court about heroism and the independence of the judicial branch. Adams presents the case as one about Cinque's heroism in the face of disastrous odds. Pointing to Cinque, Adams claims that "[h]e is the only true hero in this room. If he were white, he wouldn't be standing [here] fighting for his life. If he were white, songs would be written about him; his story would be told and retold in our classrooms; our children would know his name as well as they know Patrick Henry's!" He also speaks about how the independence of the judiciary is threatened if the court caves in to political pressure brought by Van Buren, and indirectly by the queen of Spain. Have some backbone, even if it means Civil War, Adams implies, and prove that our courts are truly independent from outside influence. Two sentences from the case's opinion

are read by a justice (never identified as Joseph Story until the credits) indicating that the Amistad survivors are to receive their freedom. After Cinque has his farewells with each of the film's principal characters (Adams, Joadson, Baldwin), he is next shown on a boat destined for Africa. <p> The film closes by showing each of the main characters and subtitles indicate their fate (e.g., Van Buren is replaced by William Henry Harrison; Cinque returns to find his family missing, village empty and country in Civil War). For those interested solely in the film's portrayal of legal events, it is barely average. The film would not be suited for use in a legal history class, simply because it contains too much inaccurate or misleading information about the trials themselves (as to its use as a supplementary film, used in conjunction with Howard Jones' <cite>Mutiny on the Amistad</cite> (1987), that would present a variety of difficulties which the individual instructor would have to prepare for). My historical references here are drawn from Jones' book. <p> There are three key misrepresentations of individuals: Baldwin was an abolitionist when the case began, and could hardly be considered a man who would only see the property implications of a human rights struggle for freedom. His character's "development" on film (from insensitive ambulance-chaser to abolitionist) falsifies his early commitment to the anti-slavery movement (see Jones, pp. 35, 37). The linguist of the film was not a bumbling idiot, but Josiah Gibbs, one of the foremost students of language, and it was he, not the fictional Joadson or Baldwin, who scoured the eastern ports looking for a sailor who spoke Mende before the conclusion of the second trial. Gibbs' role was turned to humorous advantage in the film to create some comic relief because (most likely) the movie makers did not think audiences capable of remembering several complicated relationships, or did not want to introduce another white man sympathetic to the cause of the Amistad captives other than Tappan, Baldwin and Adams. <p> The third individual whose life is seriously misrepresented on film is the district court judge. In real life, his name was Andrew Judson, and he was opposed to abolitionists before the trial began; his racial antipathies were strong (p. 96-7), and yet he overcame them in rendering his verdict (which would create confusion in the minds of the audience, as would the similarity of his name to that of the fictional character Joadson who Spielberg chose to insert in the film). There are minor problems with characterization: Jones has been able to show that Cinque lied to his captors in America, although why he lied remains a mystery (p. 44). Certainly Cinque realized that telling partial truths and falsehoods might help him return to Africa, yet the film never sug-

gests that he is anything other than honorable and heroic. There is no evidence to suggest that Cinque assisted in the creation of the legal defenses mounted by Baldwin or Adams, as the film suggests. District attorney Holabird changed legal tactics in the middle of the trial to claim that he recognized that the Amistad captives were indeed Africans (p. 76), a political tactic designed to let the White House retain control of the Africans if they were granted their freedom. John Quincy Adams was already assisting the defense team as early as the district court trial, sending them questions and raising issues about the Amistad survivors (pp. 82-3). There are several important factual misrepresentations: the American crew who boarded the Amistad most likely steered the vessel toward Connecticut and not New York because slavery was still legal there (Jones, pp. 28-9). It would complicate the film's storyline too much to explain that slavery still existed in the American north after the American Revolution, and so this fact is simply omitted from the film. But its omission falsely heightens the anxiety the audience is supposed to feel every time a southerner like Calhoun mentions the words "Civil War" (which he would not likely do, but rather he might refer to disunion or secession). The Amistad was brought into port in August, hardly the time for snow to be blowing, as it does in the film. The crucial treaty governing the case was not only the one from 1795, which might require the slaves to be returned to Spain, but also the 1817 Anglo-Spanish treaty which outlawed the purchase of Africans in Africa for enslavement and the 1819 American-Spanish treaty which confirmed the 1795 Pinckney treaty (pp. 50-1). Extensive negotiations had taken place between the British and Spanish regarding their treaty, and they had renewed it in the 1830s even after Britain decided to abolish slavery in its own West Indies possessions. The first hearing took place aboard ship, where district court judge Judson bound over the Amistad captives for trial, and placed them in the New Haven jail. The next hearing took place before two judges (Judson and Associate Justice Smith Thompson of the Supreme Court; p. 63) in a United States Circuit Court; in that trial Thompson denied a motion to grant a writ of habeas corpus, and directed the lower district court, under Judson, to resolve the issue. These first two hearings were omitted from the film, which proceeded directly to Judson's district court trial. Judson chose to move the trial from Hartford to New Haven in 1840, a place where people were more likely to be sympathetic to the Amistad Africans (p. 104). The replacement of a local judge with the imaginary judge "Coughlin" for Van Buren's political gain is pure fantasy on the part of the film, and, given Judson's original distaste for

African-Americans, it is hard to imagine why Spielberg invented Coughlin: Judson seems an even more unsympathetic character whose change of heart could be considered almost miraculous. The only purpose I could determine for substituting a crypto-Catholic judge in the movie seemed to be that it allowed gratuitous shots of a Catholic church and a further inquiry into the religious hypocrisy of any human professing Christianity while forcing men to remain in bondage, which was a pure plot device in the middle of the movie. The Secretary of State Forsyth made arrangements for the Amistad slaves at that trial's conclusion, no matter whether the district court trial found them to be either African or Cuban in origin, to be placed on the U.S. navy vessel *Grampus* and returned to Cuba (p. 113). Certainly this is the most outrageous aspect of the case's history omitted from the film, for the President, Secretary of State, and district attorney agreed in early 1840 to a strategy that would subvert the entire course of justice and violate the separation of powers, simply to be rid of a political bomb shell before the 1840 election; their actions were paralleled by an escape plan prepared by the abolitionists, who were willing to violate the law in order to free the Amistad victims and send them to safety on the underground railroad (p. 166). The second greatest legal inaccuracy in the film is how it depicts the influence of Cinque's testimony on the judge. Judson had already decided that Cinque and the other captives were African BEFORE Cinque took the stand to give testimony; Judson was not swayed by his words, but rather by the previous testimony of British observers, the two men who served as translators, and arguments made in the earlier hearings (p. 122). In his district court decision, Judson granted that Cinque and the Africans were free, but he also required that they be returned to Africa by the government. The appeal, when it arrived at the Supreme Court, was heard by five Southern justices, not seven, as claimed by the movie's voiceover (p. 171) in 1841, nearly two years and three presidents (Van Buren, Harrison and Tyler) after the case had originally begun. The Supreme Court heard Adams' appeals, and only seven of the nine justices were present during oral argument (not nine, as the film portrays). Connecticut district attorney Holabird was replaced by Attorney General Henry Gilpin, whose arguments for the government and Spain are completely omitted from the film. In Adams' summation, he described the pattern of executive interference with the Amistad captives and revealed to the court Van Buren's shocking 1840 plot to send the Africans away to Cuba, regardless of the court's decision (p. 178). Cinque was not at the Supreme Court arguments, but remained in Connecticut. After the court's

decision, it took another eight months for the Amistad Africans to return to their homeland. <p> Part Two: The Marketing of <cite>Amistad</cite> and Movies as History <p> Several months ago, I began reading about the Amistad case and the movie being made about it as part of the media blitz planned in the DreamWorks SKG marketing department. Material related to the movie showed up at my office (as I'm sure it did for some others on this discussion list) with activities for students to "encourage critical thinking about the value of history in light of the long-faded chapter restored to American history in the film <cite>Amistad</cite>." These educational materials (and I use that term loosely) were ostensibly aimed at high school and college-level students, although their qualities made them more appropriate for junior-high level classes, given that they focused on "heroes" and "differences." These "educational materials" began virtually every page with <cite>Amistad</cite> is a new film directed by Steven Spielberg. <p> Since movie posters were also enclosed, it would be easier to term these materials promotional literature, which had been mailed by Lifetime Learning Systems Inc., but they were all copyrighted by DreamWorks SKG, the company Spielberg both owns (with Katz and Geffen) and worked for as director in making <cite>Amistad</cite>. In addition to the propaganda filling my inbox, I saw pictures from the film in my local newspaper as long ago as October and read interviews done with Spielberg about <cite>Amistad</cite> as long ago as September in <cite>The New York Times</cite> (September 7, 1997). Given that <cite>Amistad</cite> is one of the three initial films to be released by DreamWorks (along with the less-than-thrilling <cite>Peacemaker</cite> and the new film <cite>Mouse Hunt</cite>), company marketers realized that they needed success with <cite>Amistad</cite> or the company's first year would have to be considered a bust. Probably the only reports that the marketing office of DreamWorks didn't fashion were ones coming from Barbara Chase-Riboud, who claimed that her book <cite>Echo of Lions</cite> was the real source for the <cite>Amistad</cite> movie; her copyright lawsuit made news that the DreamWorks team could not have wished for. For those who want to learn more about her copyright challenge, visit the website at Cornell dedicated to both the original Amistad case as well as the new copyright suit (<http://www.law.cornell.edu/amistad>). The DreamWorks marketing department has been relentless in finding venues for promoting the movie: there's a website (<http://www.amistad-thefilm.com>) and there were even photographs from the film printed the Harvard Law

School alumni bulletin, touting the role played by Justice Harry Blackmun as Joseph Story in the film's dramatic conclusion. When I read the Blackmun piece, I realized that marketers must never sleep. <p> The latest round of publicity sought by the DreamWorks team coincided with the film's release on December 12th. This publicity has been of the more traditional form, using the actors involved in the film (like Matthew McConaughey, who portrays Roger Baldwin, the young attorney who defended the <cite>Amistad</cite> slaves), with one significant addition: the film's principal producer Debbie Allen (better known for her work in Fame and as a choreographer). Ms. Allen has gone on a number of talk shows and given interviews to magazines like <cite>Jet</cite> (this week's issue) claiming that the story of the Amistad is unknown and Americans should know more about the heroism of Cinque, leader of the <cite>Amistad</cite> revolt. And it is Ms. Allen who has been the moving force behind this movie: she optioned the William Owens book <cite>Black Mutiny</cite> (1953, republished in 1968 and 1997) and persuaded Spielberg to make a film based upon the <cite>Amistad</cite> story. Owens' book is listed in the <cite>Amistad</cite> film credits as the source for the film's main ideas, but it is a book few historians would rely upon: without footnotes, it could not be considered much of a scholarly source. <p> Despite Ms. Allen's contention that <cite>Amistad</cite> rescues a lost episode from the dustbin of history, members of this list know already that her claim is untrue; the existence of Howard Jones' book, <cite>Mutiny on the Amistad</cite> (first published in 1987, newly revised and reissued to coincide with the film) has been used in legal history classrooms and is routinely cited by general American history textbooks as the best scholarly source on the subject. <p> A question in the middle of the DreamWorks promotional literature really caught my eye: "What good is learning history?" Although I'm sure Ms. Allen and Mr. Spielberg intended for students to describe racism or list positive attributes of Cinque or Theodore Joadson (an African-American abolitionist and completely fictional character, portrayed in the movie by Morgan Freeman) in answer to such a question, I do not think they themselves have really considered the question at all. To Ms. Allen and Mr. Spielberg, history is what movie makers refer to as the "backstory": what happens before the action on film takes place. This background is basically unimportant enough that it doesn't deserve time on the screen, but it exists in the minds of film characters, and sometimes becomes relevant to how a story on screen unfolds. Readers on this discussion list have seen Howard Jones' comments supporting the

Spielberg film because it tells essential truths (there was a revolt; the slaves were led by Cinque; the case was appealed through various U.S. courts to the Supreme Court; the court ruled in favor of recognizing the slaves' freedom; those who had survived returned to Africa) from the <cite>Amistad</cite> story. But the truth of history, if we as historians admit any agreement on such a weighty topic, is that we as historians are forced to choose the most significant facts to include in our story, and that history is complicated, especially when told from many viewpoints. Although Ms. Allen and Mr. Spielberg would claim that they have chosen the most significant facts, and they have complicated the historical viewpoints used, Mr. Spielberg has said in interviews that he sees himself as a storyteller, and that he makes films primarily to entertain himself. <p>

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Citation: Sally E. Hadden. Review of , *Amistad*. H-Law, H-Net Reviews. December, 1997.

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