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The Denationalization of Slaves

ONE of the characteristic traits of a slave was his denationalization. Slaves had to be removed from their family, culture, and country of origin 'to be introduced and reproduced as aliens in the slave-owning society'.¹ Once he was (re)introduced as an alien, the slave's links to his ancestors and origins were disregarded, and he was not allowed to marry and establish new kinship ties during the period of his enslavement. Orlando Patterson has succinctly described this situation: 'Not only was the slave denied all claims on, and obligations to, his parents and living blood relations but, by extension, all such claims and obligations on his more remote ancestors and on his descendants. He was truly a genealogical isolate. Formally isolated in his social relations with those who lived, he also was culturally isolated from the social heritage of his ancestors.'² The inherited religious and cultural meanings could not be integrated into the slave's life, and new meanings, whether adopted deliberately or compulsorily, did not make him a fully accepted member of the new community, whether Jewish, Roman, or Christian. The slave's alienation from all social ties except for those his master allowed him to maintain, his being a 'blank slate' which his master could inscribe, and his total lack of honour distinguished him from other dependants of the householder and members of the lower strata of society.³

With regard to slaves in Roman society Moses Finley has pointed out that 'the slave was always a deracinated outsider—an outsider first in the sense that he originated from outside the society into which he was

¹ Claude Meillassoux, *The Anthropology of Slavery: The Womb of Iron and Gold*, Chicago 1991, 100.

² *Ibid.*

³ Cf. *ibid.* 7. On the relationship between honour and social status see Julian Pitt-Rivers, 'Honour and Social Status', in J. G. Peristiany (ed.), *Honour and Shame: The Values of Mediterranean Society*, London 1965, 19–77; J. Davis, *People of the Mediterranean: An Essay in Comparative Social Anthropology*, London 1977, 89–101.

introduced as a slave, second in the sense that he was denied the most elementary social bonds, kinship.⁴ This way of thinking has an analogy in rabbinic writings, where the slave is denied kinship ties with his family of origin.⁵ The similarity seems to indicate that the view of slaves as fatherless aliens without a genealogy and a past was an intercultural commonplace in the ancient world.

One may assume that the Jewish war captives whom the Romans enslaved during the first and second Jewish revolts against Rome, and who were subsequently brought to Roman Italy, would, to a certain extent, have been familiar with Roman culture from Roman Palestine already. But they would nevertheless be outsiders in an environment permeated by pagan practices, institutions, and the common observance of the emperor cult. Their originally Jewish origin would be irrelevant to their new masters or relevant only insofar as it symbolized the power of Roman imperialism in the East.

Just as Roman jurists thought that being Roman was incompatible with being a slave, rabbis considered being Jewish and a slave a contradiction in terms (see below). Male freeborn Roman citizens' and provincials' self-distinction from slaves assigned slaves a position not even at the margins, but outside of society. During the period of enslavement religious and national origins were considered irrelevant, as Mary Gordon has pointed out: "The elusiveness of servile nationality, intensified as it is by the rarity of ethnica and the Latinization of native names, has in itself a highly important significance . . . Intermarriage produced a complete inter-mixture of races . . . The typical slave of the early empire belonged to neither east nor west: he was a product of Graeco-Roman civilization, an example of Rome's strange power of absorbing and assimilating aliens."⁶ Only after manumission would a former (male) slave be able to become a Roman citizen or to be considered Jewish. Accordingly, enslavement served as 'a compulsory initiation into a higher culture', whether Jewish or Roman.⁷ As Gordon has emphasized,

⁴ Moses I. Finley, *Ancient Slavery and Modern Ideology*, London 1980, 75.

⁵ See e.g. Sifre Deut. 292: " . . . a man and his brother" [Deut. 25: 11]: this excludes slaves, since they do not have brothers'.

⁶ Mary L. Gordon, 'The Nationality of Slaves under the Early Roman Empire', *Journal of Roman Studies*, 14 (1924), 110.

⁷ See R. H. Barrow, *Slavery in the Roman Empire*. New York and London, 1968 (1st pub. 1928), 197, quoting J. L. Meyres.

‘the slave had no *patria*, but emancipation gave him not only a city but a home’.⁸

THE BIBLICAL DISTINCTION BETWEEN HEBREW AND CANAANITE SLAVES

The Torah clearly distinguishes between Hebrew and Canaanite slaves with regard to how Israelite owners should treat them and with regard to the envisioned duration of their enslavement. The biblical regulations concerning the Hebrew slave are partly contradictory, however, and to what extent the theoretical rules were actually practised even in biblical times remains uncertain. According to Exod. 21: 2–3, a Hebrew slave shall be released in the seventh year of his service; if he had a wife when he became enslaved, his wife may leave with him. Deut. 15: 12 transmits a similar regulation after discussing the Sabbatical Year rules for fields (cf. Deut. 15: 1 ff), but does not mention the possible manumission of the slave’s wife.⁹ Instead, Deut. 15: 13–14 suggests that the master should give his slave various gifts upon his release (cattle, grain, wine). Slave holders are reminded of their own liberation from slavery in Egypt as a guideline for their own behaviour towards fellow-Israelites.

The Exodus experience is also recalled in the Levitical slave law (Lev. 25: 42). The authors of Leviticus envisioned the slave as someone who had sold himself into slavery because of his extreme poverty (cf. v. 39). Slave owners are admonished to treat him as if he were a hired labourer (Lev. 25: 40a). Although Leviticus knows of the Sabbatical Year for fields, it does not suggest the release of Hebrew slaves in that year but in the Jubilee Year, together with their children (cf. Lev. 25: 40b–41).

Scholars have offered different solutions for solving the contradictions between the biblical slave laws. Grünfeld understands the Jubilee

⁸ Gordon, ‘Nationality’, 111.

⁹ The Sabbatical Year rules in Deut. 15: 1–11 seem to be a ‘Deuteronomistic construction’ not directly related to the slave law in Deut. 15: 12 ff, see N. P. Lemche, ‘The Manumission of Slaves—The Fallow Year—The Sabbatical Year—The Jubilee Year’, *Vetus Testamentum*, 26 (1976), 45: ‘nowhere in Dtn xv 12–18 is there any reference to a fixed seven-year cycle involving a collective manumission at a certain time every seventh year. On the contrary it is quite clear that the slaves had to serve their time without complaints before they could be set free.’

Year ruling of Leviticus as a supplement to the seventh year ruling of Exodus and Deuteronomy: even if the slave has not yet served his master for six years, he must be manumitted at the time of the Jubilee Year.¹⁰ Mendelsohn, on the other hand, believes that the seventh year stipulation in Exodus and Deuteronomy applied to debt slaves only, and that even in their case their masters' observance of the law remains uncertain.¹¹ Jer. 34: 8–16 and Neh. 5: 2–5 'prove that the law of release of Hebrew defaulting debtors, at least in their time, was not enforced'.¹² The same reservations apply to the observance of the law of the Jubilee Year. Mendelsohn suggests that it should rather be seen as 'an integral part of a great land-reform utopia'.¹³ Laws concerning the manumission of slaves with clear social intentions appear in Jer. 34: 8 ff. and Neh. 5: 1–13, but they must be considered 'once-only' measures and are not associated with either the seventh or the Jubilee Year.¹⁴ Like Mendelsohn, Lemche concludes: 'At the time of the Old Testament probably no attempts were made to impose the demands of the Sabbatical and Jubilee Years by force.'¹⁵

According to the Torah, no restrictions apply to Israelites' purchase of slaves of other ethnic origins (cf. Lev. 25: 44–5). Such slaves may be given to one's children as an inheritance, that is, they may be enslaved permanently or as long as the master wishes (Lev. 24: 46). No particular precautions have to be taken with regard to their treatment. The Israelite master is allowed to 'treat them as slaves' (ibid.). Unlike Israelite slaves, whose enslavement is seen as a lapse of fortune and a reversal of the Exodus experience (see especially Lev. 25: 42: 'For they are my servants, whom I freed from the land of Egypt; they may not give themselves over into servitude'), a curse rests on certain other nations such as the Canaanites and Gibeonites, a curse which justified their permanent enslavement.

The circumcision of all male slaves is suggested in Gen. 17: 12–13: 'And throughout the generations, every male among you shall be circumcised at the age of eight days. As for the home born slave and the one bought from an outsider who is not of your offspring, they must be circumcised, home born and purchased alike.' A male Canaanite slave

¹⁰ Richard Grünfeld, *Die Stellung der Sklaven bei den Juden nach biblischen und talmudischen Quellen*, part 1, Doctoral dissertation, Jena 1886, 25.

¹¹ Isaac Mendelsohn, *Slavery in the Ancient Near East*, New York 1949, 85.

¹² Ibid. 86. ¹³ Ibid. 91.

¹⁴ On these texts see Lemche, 'Manumission', 51–6. ¹⁵ Ibid. 57.

who was circumcised does not seem to have become a fully-fledged Israelite, though.¹⁶ If this had been the case, the manumission rules concerning Hebrew slaves would henceforth have applied to him. He was probably circumcised for purity reasons and subsequently allowed to participate in certain religious rites. According to Exod 12: 43–4, ‘the Lord said to Moses and Aaron: This is the law of the Passover offering: No foreigner shall eat of it. But any slave a man has bought may eat of it once he has been circumcised.’ The circumcision is not to be understood as a conversion rite, since the circumcised slave did not obtain the status of a proselyte.¹⁷

In the Torah no purification rites are ever mentioned in connection with female slaves. Since the children of foreign slave women and Israelite men were considered proper sons and heirs within the Israelite father’s household,¹⁸ no special purification rites to enable them to perform household tasks may have been required of them. The Elephantine papyri provide evidence of the marriage between an Egyptian slave girl and a freeborn Jew.¹⁹ The female slave did not have to convert to Judaism or even be manumitted before the marriage. The children of such unions seem to have been considered proper Israelites, despite the mother’s enslaved and foreign origin. This suggests that throughout the biblical period an inclusive attitude toward integrating non-Israelite slave women and their offspring into the Israelite household, to increase the number of the master’s children, reigned supreme.

THE CATEGORIES OF SLAVE AND FREEBORN

In the Greek Jewish writings of the Hellenistic and early Roman period the distinction between Jewish and non-Jewish slaves is almost completely absent and the biblical rules concerning Hebrew slaves’

¹⁶ According to Paul Virgil McCracken Flesher, *Oxen, Women, or Citizens? Slaves in the System of the Mishnah*, Brown Judaic Studies 143, Atlanta 1988, 22, the circumcised Canaanite slave ‘no longer occupies the status of an outsider, but becomes a dependent member of his master’s household in particular, and of Israelite society in general’. That he became a member of the Israelite household does not mean that he became an Israelite.

¹⁷ See also in connection with rabbinic texts below.

¹⁸ See e.g. Gen. 16:1 ff; Gen. 30: 4, 7.

¹⁹ Emil G. Kraeling (ed.), *The Brooklyn Museum Aramaic Papyri: New Documents of the Fifth Century B.C. from the Jewish Colony at Elephantine*, New Haven 1953, no. 2.

manumission in the seventh year of their service ignored. All that matters is the distinction between slaves and freeborn persons. In continuation with biblical ideas concerning slavery, enslavement is not seen as the natural state of particular ethnic groups; it is rather seen as a Divine punishment of transgressions which could affect Jews and non-Jews alike.²⁰

The biblical slave laws are taken up and commented upon by Philo, who merely explains the biblical laws rather than altering or expanding them, however. In connection with the laws of Exodus and Deuteronomy, which admonish masters to treat their Hebrew slaves mildly and to release them in the seventh year, he writes that the relationship between Hebrew masters and their slaves should be governed by brotherly love. The master should be aware of the fact that his Hebrew slaves are fellow human beings and part of the same nation.²¹ Philo assumes that the Hebrew slave had lost his former freedom by becoming impoverished, that is, that external circumstances had caused his misery.²² Such a slave is 'by nature free' and shall be restored to his freedom in the seventh year.²³ Philo does not consider non-Jewish slaves natural slaves either, though. No one is destined to become a slave on the mere basis of belonging to a particular nation. For Philo, one's moral conduct and submission to reason, wisdom, and adherence to God's commandments is the ultimate criterion for distinguishing between freedom and 'natural' slavery.²⁴ Accordingly, Jews' enslavement amongst foreign nations is seen as God's just punishment for transgressions from which one can escape through virtuous behaviour only.²⁵

This notion was also shared by Josephus, who interpreted the enslavement of Jews by Romans in 70 CE as God's punishment for the

²⁰ See e.g. Lives of the Prophets 1: 13: 'And because Hezekiah showed the gentiles the secrets of David and Solomon and defiled the bones of the place of his fathers, God swore that his offspring should be enslaved to his enemies, and God made him sterile from that day'; Test. Naph. 4: 2: 'The Lord will impose captivity upon you; you shall serve your enemies there and you will be engulfed in hardship and difficulty until the Lord will wear you all out'.

²¹ Philo, *De spec. leg.* 2. 79 ff. ²² Ibid. 82.

²³ Ibid. 84. See also *De virt.* 121 ff.

²⁴ Philo, *Leg. all.* 3. 98; *Quod omnis probus liber sit* 57.

²⁵ Philo, *De praemiis et poenis* 164.

rebels' impiety.²⁶ Josephus applies the same reasoning to the biblical slave law in Leviticus, where debt slavery resulting from poverty seems to be alluded to. Commenting on the law of the release of Hebrew slaves in the Jubilee Year (Lev. 25: 39) he writes that 'at that season debtors are absolved from their debts, and slaves are set at liberty, that is to say, those who are members of the race and having transgressed some requirement of the law have by it been punished by reduction to a servile position, without being condemned to death' (*Ant.* 3. 282). Like Philo, Josephus thematizes the distinction between Hebrew and Canaanite slaves in exegetical contexts only.²⁷ That such distinctions were maintained by Jewish slave holders of his own time is doubtful, though. As far as contemporary circumstances were concerned, 'Josephus does not distinguish in his terminology between Jewish and non-Jewish slaves', as Gibbs and Feldman have pointed out.²⁸

Only a few of the Mishnah's texts addressing the issue of slaves and slavery distinguish between Hebrew and Canaanite slaves.²⁹ Therefore McCracken Flesher concludes: 'The Scriptural distinction of native and foreigner does not define the categories of slavery in the Mishnah's main system of slavery.'³⁰ The distinction between slaves and freedmen is much more common: 'Thus, the Mishnah contains two systems of slavery, the main system of bondman and freedman found in 123 passages, and a secondary scheme of Hebrew and Canaanite slaves that carries forward Scripture's categories of slaves found in six passages.'³¹ The distinction between slave and freedman seems to have been much more important to the rabbis of the Mishnah than the slave's ethnic origin:

²⁶ Cf. Josephus, *Ant.* 20. 166: 'This is the reason why, in my opinion, even God Himself, for loathing of their [i.e. the brigands'] impiety, turned away from our city and, because he deemed the Temple to be no longer a clean dwelling place for him, brought the Romans upon us and purification by fire upon the city, while He inflicted slavery upon us together with our wives and children; for he wishes to chasten us by these calamities.'

²⁷ See e.g. *Ant.* 4. 273, where Exod. 21: 2 and Deut. 15: 12 are paraphrased.

²⁸ John G. Gibbs and Louis H. Feldman, 'Josephus' Vocabulary for Slavery', *Jewish Quarterly Review*, 76 (1986), 293.

²⁹ See McCracken Flesher, *Oxen*, 35–6. The passages are listed in the appendix to his book.

³⁰ *Ibid.* 36.

³¹ *Ibid.*

For the Mishnah's framers, slavery cancels out the bondman's—and therefore the freedman's previous identity. . . . No clue remains to indicate even his ancestral background, not even to reveal whether he was originally an Israelite or a foreigner. The Mishnah's framers ignore the distinction of Scripture, which differentiates between Israelite and foreigner, and instead use the ethnically neutral terms, bondman [עבד] and freedman [עבד משחרר].³²

Since slave status totally obliterates the slave's prior identity, the circumcised non-Jewish (male) slave of a Jewish master, once he is manumitted, can be considered a member of the Israelite community. 'Similarly, if the bondman was originally an Israelite, enslavement affects him just as it affects the enslaved gentile, it cuts him off from his membership and position in his former society.'³³ Therefore one may assume that enslavement had a 'homogenizing effect', it blotted out differences in origin, ethnicity, culture, and religion.³⁴

This homogenizing effect of slavery, which led to slaves' denationalization, seems to have been a general phenomenon throughout the Roman Empire. Mishnaic rabbis' diversion from biblical law in this regard must be seen in this wider context. Originally Jewish slaves who were brought to Rome and employed in Roman households were invariably exposed to non-Jewish ways of life. To what extent they were forced to observe pagan ceremonies and to participate in the cult of pagan deities remains uncertain, but it is very unlikely that they were able to continue adhering to Jewish religious obligations such as Sabbath observance and food laws while they were enslaved.³⁵ If their owners were Christians, they will have tried to convert their slaves to Christianity and to baptize them.³⁶ Originally pagan owners who

³² McCracken Flesher, *Oxen*, 39.

³³ *Ibid.* 40. ³⁴ *Ibid.*

³⁵ See also Leonard V. Rutgers, *The Hidden Heritage of Diaspora Judaism*, Leuven 1998, 93, on this issue. That Diaspora Jews in general were constantly exposed to—and seem to have usually given in to—the powers of assimilation has been argued convincingly by Gideon Bohak, 'Ethnic Continuity in the Jewish Diaspora in Antiquity', in John R. Bartlett (ed.), *Jews in the Hellenistic and Roman Cities*, London and New York 2002, 175: 'Jewish continuity in diaspora settings cannot be taken for granted, and . . . in some cases it may have been the exception, not the rule'. If the forces of assimilation already affected freeborn Diaspora Jews, one may assume that they would have affected slaves even more.

³⁶ Henneke Gülzow, *Christentum und Sklaverei in den ersten drei Jahrhunderten*, Bonn 1969, 45. Cf. Aristides, *Apol.* 15. 6.

decided to convert to Christianity usually converted their entire households, including their slaves.³⁷ Similarly, non-Jewish slaves who were owned by Jewish masters will have been circumcised (and immersed) for purity reasons and made to participate in the family's Jewish way of life.

THE CIRCUMCISION AND IMMERSION OF SLAVES

The Tosefta suggests that gentile slaves should be both circumcised and immersed before they are used in a Jewish household:

He who purchases uncircumcised slaves from gentiles and circumcised them but did not immerse them, and likewise sons of slave women, who had not immersed, whether they were circumcised or uncircumcised, behold, these are gentiles. Things which they press against [or: use as a seat] are [deemed] unclean. And [what is the rule] concerning their wine [that is, wine made by them]? In the case of adults it is prohibited, and in the case of minors it is permitted. And who is [considered] an adult? Anyone who remembers and recognizes idolatry and its service. And who is [considered] a minor? Everyone who does not recognize idolatry and its service. R. Yose says: The assumption [that he is] a slave of an Israelite [applies] even if they are uncircumcised? Behold, they are Canaanites, until it is known about them that they are the sons of slave women who had not immersed. The assumption concerning slaves of Samaritans, [even if they are] circumcised, [is that] behold, they are Samaritans. [If they are] uncircumcised, behold, they are gentiles, until it is known that they are the sons of Canaanite slave women. The assumption concerning slaves of gentiles, even if they are circumcised, [is that] behold, they are gentiles (T. A.Z. 3: 11).

³⁷ Gülzow, *Christentum*, 52. The New Testament contains many references to a householder's conversion 'with his entire house', cf. John 4: 53, Acts 10: 2, 11: 14, 16: 15, 31, 32 ff; 1 Cor. 1: 16 (the House of Stephanus), 16: 15 f. On household conversions see also Jennifer A. Glancy, *Slavery in Early Christianity*, Oxford and New York 2002, 46–9. On p. 47 she writes: 'Luke supposed that his readers would find nothing amiss when a slaveholder determined the religious practices of the household. Indeed, even contemporary scholars evince little concern about the legitimacy of conversion and baptism of slaves in such circumstances.' Glancy assumes that the conversion of their entire households gave householders a prominent place in the communities: 'Descriptions of household conversions in Acts of the Apostles suggest that slaveholders played a disproportionate role in the baptisms of their households and therefore a role in the Christian body that derived not from a gift of the spirit but from their secular status.'

This text puts great emphasis on immersion as a necessary requirement for using gentile slaves in Jewish homes. It is not entirely clear whether the text speaks of male slaves only or uses ‘slaves’ and ‘children of slave women’ in a gender-neutral way. The reference to circumcision together with immersion makes the first option, that only male slaves are referred to here, more likely, though. Unless they are both circumcised and immersed, male slaves, whether purchased from a slave dealer or born in the Jewish master’s household, are considered gentiles.³⁸ As gentiles they render everything they touch impure, and the wine (and food) prepared by them cannot be consumed by Jews. Only gentile slave children were exempt from this restriction, as long as they did not participate in pagan rites.³⁹ The circumcision and immersion of gentile slaves function as symbolic purification rites supposed to cleanse the slaves from their former contact with idolatry then.⁴⁰ They do not render the gentile slaves Israelites, as the last sentence makes clear. Through these rites the slave becomes an עבד ישראל (‘slave of Israel’).⁴¹

³⁸ See also Gen. R. 46: 1, where it is stressed that slave women’s newborn babies have to be circumcised on the eighth day. In Gen. R. 48: 3 Abraham is presented as a model with regard to circumcising one’s slaves. For Abraham as an exemplary Jewish slave owner see also Tanh. B. Bereshit 4: 4 (Vayyera): ‘R. Acha said: Come and see the power which the Holy One Blessed Be He gave to Abraham, who in one day circumcised himself and the slaves born in his house [וילידי ביתו], and his son Ishmael . . . Look at how many home-born slaves there were [ראה כמה היו ילידי ביתו]! As it is written: “He mustered his three hundred and eighteen home-born slaves” [Gen. 14: 14]. And if his home-born slaves were so many, those bought for money, how many more [were they]!’

³⁹ This ruling seems to be contradicted by R. Yose: uncircumcised slave children cannot be the slaves of an Israelite. The following text (‘until it is known about them that they are the sons of slave women . . .’) is difficult to understand and may be corrupt.

⁴⁰ The dangers of pollution through the possession of pagan slaves within one’s household were also seen by early Christians. Geoffrey S. Nathan, *The Family in Late Antiquity: The Rise of Christianity and the Endurance of Tradition*, London and New York 2000, 172, points to the church canon of Elvira (Canon 41, 306 CE) which prohibited slaves’ possession of idolatrous idols in Christian households. Since this measure might have led to slave uprisings, it was suggested that masters should live at some distance from their slaves to at least maintain ‘symbolic purity in the household’.

⁴¹ See also Joachim Jeremias, *Jerusalem zur Zeit Jesu. Eine kulturgeschichtliche Untersuchung zur neutestamentlichen Zeitgeschichte*, 3rd edn., Göttingen 1962, 385: ‘Aus der Leibeigenschaft einerseits und der Beschneidung andererseits ergab sich die eigentümliche Zwitterstellung, in der sich der heidnische Sklave befand. Er war zwar durch die Beschneidung “Sohn des Bundes” und doch nicht (solange er nicht freigelassen war) Glied der Gemeinde Israels.’ See also Gültow, *Christentum*, 18. In Christian communities forcefully Christianized slaves were theoretically considered part of the ‘body of

In connection with the Passover rite the Tosefta distinguishes between the circumcision of male slaves and the immersion of female slaves:

All the same are a gentile who was circumcised and a slave woman who had immersed [with regard to being allowed to eat the Passover sacrifice] (T. Pes. 7: 14).

All the same are the Passover [observed in] Egypt and the Passover [observed throughout the] generations: He who has slaves who are not circumcised and female slaves who have not immersed, they prevent him from eating the Passover offering. R. Eliezer b. Yaqob says: I say that Scripture speaks of the passover in Egypt [only in this regard] (T. Pes. 8: 18).

That both circumcision and immersion are required for male slaves is not mentioned in these texts. Immersion is mentioned for female slaves only.

It remains unclear whether T. Pes. 8: 18 tries to prevent the slaves or the slave owner or both from eating the Passover sacrifice, if the slaves are not circumcised and immersed. In connection with Exod. 12: 44 and T. Pes. 7: 14 the formulation, 'they prevent him from eating the Passover offering' (T. Pes. 8: 18) may refer to the impure slaves: only after having been circumcised and immersed are they allowed to participate in the Passover meal. If, on the other hand, the slave owner is referred to here, one could imagine that rabbis were opposed to Jews eating a Passover meal prepared and served by uncircumcised gentile slaves, although the fact that gentile slaves would render the food impure is not expressly mentioned here. In connection with Exod. 12: 43–4 ('The Lord said to Moses and Aaron: This is the law of the Passover offering: No foreigner shall eat of it. But any slave a man has bought may eat of it once he has been circumcised') the Mekhilta presents a different explanation: 'This indicates that the [failed obligation of] circumcising his slaves may prevent him from eating the Passover offering' (Pisha Ba 15), that is, the master himself may not participate in the meal, if he was negligent and failed to purify his slaves properly. In the Mekhilta a controversy between R. Eliezer (slaves have

Christ' (cf. 1 Cor. 12: 13, Gal. 3: 28, Col. 3: 11), but the liabilities of their enslavement (e.g. their sexual availability which conflicted with Christian values) will have made them second-class members, see Glancy, *Slavery*, 49–50.

to be circumcised) and R. Yishmael (they must not necessarily be circumcised) ensues.⁴²

The final statement attributed to R. Eliezer b. Yaqob seems to stand in opposition to the anonymous view of the preceding text: only in the Diaspora are circumcision and immersion required of gentile slaves; in the land of Israel, on the other hand, the presence of gentile slaves does not impede the householder from eating the Passover sacrifice (or the slaves from participating in the meal). That such a liberal opinion concerning the ownership of uncircumcised and unimmersed gentile slaves was not shared by other rabbis is indicated by another Tosefta text: 'All make [a house] a dwelling of gentiles, even a male slave, even a female slave . . . ' (T. Ahil. 18: 6). Since the very existence of gentiles in a house makes that house unclean, gentile slaves need to be purified through circumcision and/or immersion before they can be employed in the household of a Jewish family.⁴³

Slaves who were circumcised and immersed were thought to have been brought 'under the wings of the *Shekhinah*', that is, saved from leading a life of idol worship. According to Sifre Num. 80, slave masters who brought many slaves 'under the wings of the *Shekhinah*' would thereby 'increase the glory of God'.⁴⁴ A similar notion is expressed in y. A.Z. 1: 1, 39b, which allows Jews to purchase both Jewish and non-Jewish slaves at the slave markets of gentile fairs:

[A] And has it not been taught: They go to a [gentile] fair and purchase male and female slaves there [cf. T. A.Z. 1: 8]?⁴⁵

⁴² The conflict is resolved by a compromise: the Mekhilta refers to the case of a householder who bought a slave immediately before the beginning of the Sabbath and had no chance of circumcising him. Otherwise slaves must be circumcised to allow the householder to eat the Passover meal.

⁴³ But see M. Ohal. 18: 7 and T. Ahil. 18: 8: slaves are believed when they give testimony concerning the (un)cleanness of the houses of gentiles. The prior circumcision and immersion of the slaves may have been presupposed here.

⁴⁴ In early Christianity, the conversion of slaves to Christianity was similarly regarded as laudable, see G. E. M. de Ste. Croix, 'Early Christian Attitudes to Property and Slavery', in Derek Baker (ed.), *Church Society and Politics*, Studies in Church History 12, Oxford 1975, 24: 'condemnation of the sin of enslaving Christians is commonly accompanied by the tacit admission that enslaving non-believers is permissible, and even praiseworthy if enslavement is followed by conversion to the faith—a conversion which perhaps in some cases could hardly be attained by other means'.

⁴⁵ The negation ׀א in the printed text of the Tosefta (Zuckerman edn., p. 461) seems to be a mistake.

[B] Resh Laqish said: It is not the end of the matter [that one may purchase] Israelite slaves [there], but even gentile [slaves], for one brings them under the wings of the *Shekhinah*.⁴⁶

The continuation of the *baraita* in the Tosefta, ‘for he [the purchaser] is like one who rescues [them] from their hand [that is, their power]’, makes clear that the *baraita* refers to the purchase of Israelite slaves. This understanding becomes explicit in Resh Laqish’s comment on the text. The comment expands the reasoning of the *baraita* by including gentile slaves as well: a variant of the Tosefta’s explanation can be applied to them.

The entire passage reads like a justification of Jews’ purchasing of Jewish and non-Jewish slaves at gentile slave markets. That the Yerushalmi omits the Tosefta’s continuation may be significant: no hint at a possible manumission of the Jewish slaves by their Jewish owners remains. Neither are the gentile slaves to be freed. The advantage of their being the slaves of Jewish masters is that they are brought ‘under the wings of the *Shekhinah*’, a situation which probably implied that they were circumcised if they were male. Such circumcised slaves (עבדי ישראל) were distinguished from those who remained uncircumcised and in the status of an עבד תושב (‘a sojourning slave’), who, according to *y. Yeb. 8: 1, 8d*, ‘is forever a גר תושב (“a sojourning alien”), behold, he is gentile in all matters’.⁴⁷

The possibility that slaves who were circumcised and/or immersed might be considered Jewish and therefore become free is discussed in the *Mekhilta*:

R. Nathan says: Scripture says: ‘[Every male among you] shall be circumcised’ [Gen. 17: 1], only to encompass the slave who immersed before his master and

⁴⁶ The text has a parallel in *Gen. R. 47: 10*: ‘“And all the men of his house, those born in the house and those who had been bought with money [from a foreigner were circumcised with him]” [Gen. 17: 27]. It has been taught: They go to a gentile fair on the intermediate days of a festival to purchase from them houses, fields, and vineyards, and slaves, and slave-girls. R. Ammi in the name of R. Shimon b. Laqish: It is not the end of the matter [that they purchase] circumcised [in some MSS] slaves, but even uncircumcised [slaves], since they are brought under the wings of the *Shekhinah*. R. Yehoshua b. Levi asked before Resh Laqish. He said to him: What is the rule concerning purchasing uncircumcised slaves from a gentile? He said to him: When [i.e. with regard to what time period] do you ask me? [With regard to] a festival day, it has been taught [that it is permitted] even on a Sabbath.’

⁴⁷ Cf. *y. Er. 6: 2, 23b*, where the same notion is expressed in connection with the *erub-meal*.

became free. A story concerning Beluria, some of whose female slaves immersed before her and some after her. And the case came before sages and they said: Those who immersed before her are free women; [those who immersed] after her are [still] slaves. Nevertheless they served her until the day of her death (Mekh. Pisha 15).

The distinction between immersion ‘before’ and ‘after’ the master may refer to voluntary and involuntary immersion here. Slaves who voluntarily converted to Judaism and became proselytes may have constituted a problem for rabbis, since as proselytes they could not have another master but God. For proselytes just as for Israelites slavery stood in contradiction to the Exodus experience of liberation from enslavement. The problem would not apply to slaves who were circumcised or immersed ‘after’ their master, since such rituals did not constitute proper conversion and integration into the Jewish community. This is also indicated by *y. Qid.* 3: 15, 64d: ‘[If] his master becomes a proselyte and makes two of his slaves proselytes . . . behold, they are [still] slaves’.

In connection with *Exod.* 12: 44 (‘But any slave a man has bought may eat of it once he has been circumcised’) the *Yerushalmi* discusses the issue whether slaves may be circumcised against their will (cf. *y. Yeb.* 8: 1, 8d). According to an opinion attributed to R. Abbahu and R. Eleazar in the name of R. Hoshaiyah, *Exod.* 12: 44 implies that a slave may be circumcised against his will, in contrast to the adult son of a proselyte, who may not. The following statement by R. Hela in the name of R. Yosa introduces further distinctions:

He who takes uncircumcised slaves from the gentiles on condition of circumcising them . . . What is your choice? [If] he is [in the status of] the slave of a man, you can circumcise him against his will. [If you purchased him] on condition not to circumcise him, he is [in the status of] the son of a man: you may not circumcise him against his will.

According to this opinion, then, gentile slaves may be circumcised by their Jewish owners only if this was intended at the time of the purchase (and indicated to the gentile slave dealer?). The second clause, ‘[If you purchased him] on condition not to circumcise him, he is [in the status of] the son of a man: you may not circumcise him against his will’, may perhaps be seen in connection with the restrictive legislation of the Christian emperors of the fourth and fifth century, who prohibited the circumcising of slaves: if the Jewish owners expressly told the gentile

sellers that they would not circumcise the slaves, they had to keep their word and could not act against it later on. This may have been a pragmatic solution which allowed Jewish slave holders and gentile slave dealers to arrive at a sales agreement despite current legal restrictions concerning circumcision. Whether Jewish slave holders actually followed these rabbinic recommendations remains open, though.

THE PROHIBITION AGAINST CIRCUMCISING SLAVES

The practice of circumcising non-Jewish slaves, ordained by the Torah and continued in post-biblical times, was officially prohibited at the end of the third century CE. The prohibition was repeated under Constantine in the fourth century. A rescript from Antoninus Pius prohibited the circumcision of non-Jews.⁴⁸ In his *Sententiae*, probably written before 300 CE, the jurist Paul writes:

Roman citizens, who suffer that they themselves or their slaves be circumcised in accordance with the Jewish custom, are exiled perpetually to an island and their property confiscated; the doctors suffer capital punishment. If Jews shall circumcise purchased slaves of another nation, they shall be banished or suffer capital punishment.⁴⁹

Not only the Jewish masters who circumcise their slaves but also Romans who let themselves and/or their slaves be circumcised by Jews are threatened with harsh punishments here. The first part of this text seems to refer to Roman citizens' (voluntary) conversion to Judaism, a procedure which would probably have involved the conversion of the slave *familia* as well. The second part refers to the forced circumcision of slaves bought by Jewish slave owners from Romans or other non-Jewish slave dealers. Rutgers believes that the prohibition of circumcising non-Jews was issued by the Roman emperor 'in the wake of the Bar Kochba revolt'.⁵⁰ To what extent Jews actually refrained from circumcising their

⁴⁸ See *Dig.* 48.8.11 and Benjamin Isaac, *The Invention of Racism in Classical Antiquity*, Princeton and Oxford 2004, 449.

⁴⁹ Paul, *Sententiae* 5. 22. 3–4. Translation from Amnon Linder, *The Jews in Roman Imperial Legislation*, Detroit 1987, 118.

⁵⁰ See Rutgers, *Heritage*, 211.

slaves and Romans from selling their slaves to Jews in reaction to this ruling remains an open question, though.

One may assume that if the ruling had been generally observed, Constantine's reiteration of the prohibition several decades later would have been unnecessary. In 335 CE Constantine ruled:

Emperor Constantine Augustus to Felix, Praefectus Praetorio:⁵¹ If one of the Jews shall buy and circumcise a Christian slave or of any other sect, he shall on no account retain the circumcised in slavery, but he who suffered this shall acquire the privileges of liberty. And other matters (C. Th. 19. 9. 1).⁵²

Constantine's primary interest seems to have been the prevention of Jews' employment and proselytizing of Christian slaves. Granting such slaves automatic freedom was meant to deter Jews from purchasing Christian or other non-Jewish slaves and 'conformed to Constantine's known tendency to manumit slaves by law (*lege*), either as recompense or in order to punish their masters'.⁵³

The prohibition against possessing and proselytizing Christian slaves was reissued by Constantine's successors Constantine II (339) and Theodosius (384). The fact that such a restatement was necessary and that the penalty was increased suggests that Jews continued to own and circumcise non-Jewish slaves at that time. Constantine II decreed that if a Jew had bought a non-Jewish slave and 'shall circumcise the purchased slave, not only shall he suffer the loss of the slave, but he shall be punished, indeed, by capital punishment' (C. Th. 16. 9. 2). All Christian slaves were supposed to be taken away from Jewish slave owners, but their manumission is not mentioned any more.⁵⁴ In his decree of 384 Theodosius does not specify the punishment inflicted on

⁵¹ Linder, *Jews*, 139, remarks that although the decree is addressed to Felix, the praetorian prefect of the diocese of Africa, it had a much broader scope: 'it was certainly issued as a general law, with identical copies sent to the governors of the other dioceses as well'.

⁵² Translation by Linder, *Jews*, 141.

⁵³ *Ibid.* 139.

⁵⁴ But see C.J. 1. 10. 1 (Constantius to Evagrius), which Linder sees as a parallel to C. Th. 16. 9. 2, issued by Constantine II, cf. the discussion in Linder, *Jews*, 144–7. After threatening the Jewish owner with capital punishment, this text adds at the end: 'while that same slave shall be given liberty in recompense'. The addition was probably made by Justinian's editors. Another law promulgated by Constantine II concerns Christian women employed in weaving establishments (C. Th. 16. 8. 6). These women do not seem to have been owned by Jews as slaves, though; the texts rather seem to deal with marital relationships between Jews and Christian women which would involve the women's integration into the Jewish household and their conversion to Judaism.

the Jewish slave owner but states that it should be ‘commensurate and appropriate to the crime’ (C. Th. 3. 1. 5). He further rules that Christian slaves owned by Jews ‘shall be redeemed from a shameful slavery through the payment by Christians of the right price’, that is, he urges Christians to redeem their co-religionists with their own money, an appeal to Christian morality.⁵⁵

The idealist notions that a slave owned by a master who does not share his religion should automatically go free and that the slave’s co-religionists should invest their own money to redeem him from slavery have parallels in rabbinic texts. According to M. Git. 4: 6,

He who sells his slave to a gentile, or to [someone] outside of the land [of Israel], he goes forth a free man. One should not ransom captives for more than their value [purchase price], for the good order of the world. . . .⁵⁶

It goes without saying that rabbis were unable to enforce these rules. They could not force the gentile slave owner to liberate his Jewish slaves. The first ruling merely served to warn Jewish slave owners against selling their Jewish slaves to gentiles or Diaspora Jews, that is, to households which would not adhere to a proper Jewish lifestyle. Although Jews were urged to ransom their fellow-Jews from enslavement to gentiles,⁵⁷ they were warned against paying excessive prices, since this would only encourage Romans to enslave more Jews. Nevertheless, the Tosefta transmits a story about R. Yehoshua, who went to Rome and redeemed a Jewish boy by paying a large amount of ransom money for him:

A story concerning R. Yehoshua who went [to Rome] and they said to him: There is a child here, a Jerusalemite, with beautiful eyes and a beautiful face, and he is going to be put to disgrace. And R. Yehoshua went to examine him. When he came to the door, he said this biblical verse: Who gave up Jacob to the spoiler, Israel to the robbers? The child answered him and said: ‘Was it not the Lord against whom we have sinned, in whose ways they would not walk’ [Isa. 42: 24]? At that moment R. Yehoshua said: I call to testify against me heaven

⁵⁵ On the moral imperative to redeem fellow-Christians see also Gültzow, *Christentum*, 101–2.

⁵⁶ The parallel in T. A.Z. 3: 16 and 18 is more detailed. It mentions a deed of emancipation which the Jewish master has to give to his slave (before the sale?). In the Tosefta the admonition to liberate enslaved fellow-Jews also applies to debt slaves and war captives seized by Romans.

⁵⁷ See also T. Git. 4: 2 in this regard: ‘for just as Israelites are commanded to redeem free persons, they are commanded to redeem their slaves’. Cf. T. M.Q. 1: 12.

and earth that I shall not move from here until I have redeemed him. He redeemed him with a lot of money and sent him [back] to the land of Israel. And concerning him [Scripture] says: 'The precious sons of Zion, worth their weight in fine gold' [Lam. 4: 2] (T. Hor. 2: 5–6).

The expression 'to be put to disgrace' seems to refer to prostitution here. Prostitution was a fate which threatened enslaved children, especially if they were sold abroad to gentile masters. R. Yehoshua serves as a model for proper moral behaviour here.

It seems, then, that both Jewish and Christian leaders were concerned about their co-religionists' enslavement amongst adherents of another, competing religion or amongst pagans, who would inevitably introduce them to foreign practices and beliefs. Whether they were actually able to prevent such developments from happening is highly questionable. If Jews had not owned and forcibly proselytized Christian and pagan slaves, and if Romans had not owned Jewish slaves and made them adhere to their ways of life, the above-mentioned admonitions would not have been necessary. The law issued by Honorius and Theodosius II in 415 CE (cf. C. Th. 16. 9. 3), which allowed Jews to possess Christian slaves as long as they allowed them to practise their religion, may be seen as a concession, 'undoubtedly influenced by the difficulties involved in implementing the absolute prohibition'.⁵⁸

THE STATUS OF CIRCUMCISED SLAVES

Despite the respective political and religious leaders' concerns about Jewish and Christian slaves' enslavement in 'foreign' households and subsequent conversion, these slaves' status as proper Jews and Christians seems to have been questionable. Slaves in Christian households were often converted by force rather than on the basis of their own deliberate decision. Due to their inevitable involvement in immoral sexual activities Christian slaves would live in continuous contradiction to the official church ethics. Glancy therefore assumes that a double morality reigned within early Christian communities, in which the slave

⁵⁸ Linder, *Jews*, 277. An absolute prohibition against possessing Christian slaves was reintroduced by Justinian between 527 and 534 CE, see C.J. 1. 10. 2, and extended to all slave owners who were not orthodox Christians.

morality stood in conflict with but was tolerated alongside the slave holder morality of the Christian leaders.⁵⁹ While rabbis considered circumcised gentile slaves to be ‘under the wings of the *Shekhinah*’, Jewish slaves were differentiated from free Jews since they ‘had broken off the yoke of heaven and accepted upon themselves the yoke of flesh and blood’ in transgression of the Exodus experience and Jewish monotheism (cf. Exod. 20: 3):

And it [Scripture] says: ‘And his master will pierce his ear with an awl’ [Exod. 21: 6]. Why is the ear seen to be pierced rather than all [other] parts [of the body]? Because it heard from Mount Sinai: ‘For unto me the children of Israel are slaves, they are my slaves’ [Lev. 25: 55], [yet] it broke off the yoke of heaven and accepted upon itself the yoke of flesh and blood. Therefore Scripture says: ‘Let the ear come and be pierced, because it did not observe what it heard’ (T. B.Q. 7: 5).⁶⁰

Exod. 21: 6 refers to the Hebrew slave who wants to stay with his master permanently. In the context of the Tosefta the ruling seems to apply to all Jewish slaves, though. The text assumes that the slave was himself responsible for his enslavement, for example, by selling himself into debt slavery. Being a slave is considered the transgression of a Divine commandment and treatment as a slave the just punishment for this vice.⁶¹ Jewish slaves are considered deficient Jews: on the basis of the Exodus experience, which delivered Jews from slavery to freedom, being the slave of another human being and a Jew who is obliged to God only is seen as a contradiction in terms. Therefore rabbis did not consider slaves part of the Jewish community unless they were manumitted (cf. M. Hor. 3: 8).

Like the Mishnah, the Yerushalmi mainly refers to the biblical distinction between Hebrew and Canaanite slaves in exegetical contexts. The references to Jewish slaves’ release in the seventh and Jubilee years in two different *sugyot* in y. Qid. 1: 2, 59c–d can be seen as a paraphrase and repetition of the biblical rules. As in the Torah, in the Yerushalmi

⁵⁹ See Glancy, *Slavery*, 133–52, where she examines the household codes of the New Testament epistles in this regard.

⁶⁰ The text has a parallel in y. Qid. 1: 2, 59d.

⁶¹ Ancient Christian writers viewed slavery as a Divine punishment, too, but as the punishment of Original Sin rather than of the transgressions of Divine commandments, see Nathan, *Family*, 171, with reference to Augustine, *De civ. dei* 19. 15 and Gregory of Nazianzus, *Or.* 5, who saw slavery as the consequence of man’s Fall.

the contradictory regulations stand side by side without any attempt at harmonizing or explicating them. At the end of y. Qid. 1: 2, 59d the Jubilee Year regulation (Lev. 25: 54) is quoted, but this rule is immediately followed by another quote which states that the enslavement ends with the death of the master only: 'And he shall be your slave forever' (Deut. 16: 16).

According to the Yerushalmi, Jewish and circumcised gentile slaves were to be treated alike in the religious sphere. When religious obligations are discussed, the 'slave' is not further specified as Jewish or gentile but treated as a generic category. Y. Git. 4: 4, 45d deals with the question whether an uncircumcised gentile slave may eat from the Passover sacrifice. Exod. 12: 44 is quoted in this connection, stating that every slave is allowed to eat from it after his circumcision only. In the Yerushalmi another criterion is mentioned, however: a slave who is serving his master may not partake of the Passover sacrifice; when he is not serving his master, he may eat from it. Whether this criterion applies in addition to the criterion of circumcision or as an alternative to it remains unclear.

Differences between 'Israelite' and 'Canaanite' slaves regarding the rights of possession and transfer of ownership are already addressed by the Mishnah. According to M. B.M. 1: 5, a Hebrew slave may keep whatever objects he finds, whereas objects found by a Canaanite slave belong to his master. In the Yerushalmi a statement attributed to R. Yochanan explains this Mishnaic rule: masters have greater authority over Canaanite than over Hebrew slaves in work-related contexts as well. Similarly, y. Er. 7: 6, 24c discusses the respective *mishnah* which distinguishes between Hebrew and Canaanite slaves with regard to their being able to effect possession (in the form of *shituf*, that is, joint ownership of an alleyway by all residents). Hebrew slaves, like the householder's wife and adult children, can effect possession, whereas Canaanite slaves, like minor children, cannot, because 'their hand is like his hand', that is, they are seen as an extension of their master.

The Mishnah further distinguishes between Hebrew and Canaanite slaves in connection with the transfer of ownership (cf. M. Shen. 4: 4): may children or slaves redeem the second tithe for their father/master? In y. M. Shen. 4: 4, 55a the discussion is continued. According to R. Eleazar, only a Hebrew slave can properly function as an intermediary in the transfer of ownership on behalf of the householder. R. Yochanan,

on the other hand, maintains that a Canaanite slave is similarly fit to act in this function, that is, no differences between Hebrew and Canaanite slaves exist in this regard.

It seems, then, that for the rabbis the biblical differentiation between Hebrew and Canaanite slaves was of limited value only. Since by their time Jewish owners would customarily circumcise (and immerse) their non-Jewish slaves, and since enslaved Jews were not considered proper Jews anyway, distinctions between these two categories of slaves were blurred. The natural phenomenon of mixed procreation would also render such distinctions inappropriate. In mixed households enslaved Jews would hardly have been able to limit their sexual intercourse to other slaves of Jewish origin only. For rabbis just as for Roman jurists the state of slavehood, of being the slave of a human master, was therefore more significant than the slave's ethnic and religious origin.

SLAVE NAMES

The transition from free person to slave usually involved a change of the enslaved person's name. In Roman as in Jewish society, filiation indicated the status of the freeborn: the form 'X son of Y' 'was evidence of the submission to the authority of a father, which brought with it a rightful place in society and marked him as an individual with a family of origin', something which slaves lacked.⁶² Slaves would often be named after their masters and maintain their names after their manumission: 'The master's name and an indication of his possession . . . replaced filiation: name displayed ownership, not paternal relationship.'⁶³ Slaves' personal names could also be Latinized, or they were assigned Greek names, some of which became typical servile names. Some slaves were given nicknames based on physical attributes.⁶⁴

Ethnic names may sometimes indicate the nationality of slaves but are also misleading, as Mary Gordon has pointed out:

⁶² See Sandra R. Joshel, *Work, Identity, and Legal Status at Rome: A Study of the Occupational Inscriptions*, Norman and London 1992, 35.

⁶³ *Ibid.* 36.

⁶⁴ See Leonard V. Rutgers, *The Jews in Late Ancient Rome: Evidence of Cultural Interaction in the Roman Diaspora*, Religions in the Graeco-Roman World 126, Leiden 1995, 168.

As evidence of origin they require to be used with caution. Sometimes they were mere nicknames; more often they were used to designate occupations typical of certain nationalities; above all, they might lose their meaning as completely as the English surnames French or Fleming, and be used indiscriminately as ordinary proper names. Most misleading of all are those apparent ethnica which are really barbarian personal names, just as Germanus may be merely the Latin adjective.⁶⁵

Whether or not ‘Germana’ is used as an ethnic name in the amoraic stories about R. Yudah ha-Nasi and his slave Germana is open to question.⁶⁶

Elsewhere in the Yerushalmi so-called ‘Goths’ are mentioned.⁶⁷ Two ‘Goths’ are said to have supported R. Abbahu in the bathhouse of Tiberias (y. Bez. 1: 6, 60c par. Gen. R. 97: 1; the parallel in b. Ket. 62a has ‘slaves’). In another story tradition R. Yehudah Nasia is said to have sent out ‘Goths’ to seize Resh Laqish who had insulted him with his remark (cf. y. Hor. 3: 2, 47a par. y. Sanh. 2: 1, 19d–20a). Based on Rashi, Krauss has suggested viewing these Goths as the patriarch’s private army which was given to him as a gift from Antoninus.⁶⁸ While the assumption of a private army donated to the patriarch by the Roman emperor is highly unlikely (the emperor would not have wanted the patriarch to be a military leader in his own right, after all), the patriarch’s armed slaves may have formed a kind of paramilitary body, as suggested by

⁶⁵ Gordon, ‘Nationality’, 98.

⁶⁶ See y. Shab. 6: 9, 8c; y. Yoma 8: 5, 45b; y. A.Z. 2: 10, 42a. A certain Germanus ‘the *liblarius*’ also appears in a signature attached to P. Yadin 20—was he a slave who functioned as a scribe? According to Finley, *Ancient Slavery*, 129, ‘large-scale trading in Germans can be documented from the third, fourth and fifth centuries’. Some of these slaves may have been brought to Palestine by Roman soldiers and military veterans who may have eventually sold them locally.

⁶⁷ For the various interpretations of the term’s occurrence in rabbinic sources see Yaron Z. Eliav, ‘*Realia*, Daily Life, and the Transmission of Local Stories during the Talmudic Period’, in Leonard V. Rutgers (ed.), *What Athens has to Do with Jerusalem: Essays on Classical, Jewish, and Early Christian Art and Archaeology in Honor of Gideon Foerster*, Leuven, 2002, 247 n. 23; Andreas Lehnardt, *Besa. Ei. Übersetzung des Talmud Yerushalmi*, vol. II.8, Tübingen 2001, 42–3 n. 390; Alexei Sivertsev, *Private Households and Public Politics in 3rd–5th Century Jewish Palestine*, Texts and Studies in Ancient Judaism 80, Tübingen 2002, 120–4.

⁶⁸ See Martin Jacobs, *Die Institution des jüdischen Patriarchen. Eine quellen- und traditionskritische Studie zur Geschichte der Juden in der Spätantike*, Texts and Studies in Ancient Judaism 52, Tübingen 1995, 43, with reference to Samuel Krauss, *Antoninus und Rabbi*, Vienna 1910, 41 f. and Rashi on b. Ber. 16b. Cf. Seth Schwartz, *Imperialism and Jewish Society, 200 B.C.E. to 640 C.E.*, Princeton 2001, 115.

Sivertsev.⁶⁹ Sivertsev argues that this phenomenon is also reflected in some other narrative traditions of the Talmud Yerushalmi, even if the Goths are not mentioned specifically: the story about Yose of Maon, who had publicly criticized the patriarch(al family) and was forced to escape (y. Sanh. 2: 6, 20d par. Gen. R. 80: 1); the story about R. Shimon b. Laqish who brought slaves of R. Yehudah Nasia to confiscate the property of a woman in connection with an inheritance dispute (note R. Shimon b. Laqish's different role here). With regard to the latter story, Sivertsev writes: 'this story provides explicit testimony to the use of one's slaves as enforcement agents, i.e. for functions similar to those of the *Gutayim*'.⁷⁰

Even if the Goths of y. Hor. 3: 2, 47a functioned as a paramilitary troop, the term does not seem to have been used for such slaves exclusively, and slaves who occupied such functions were not necessarily called Goths, as the other narratives mentioned show. Some slaves' designation as Goths does not necessarily point to their ethnic origin. It may have been a nickname, perhaps based on their physical strength which was associated with that ethnic community. One may assume that in Babylonia the reference to Goths would not be understood properly. Babylonian Jews unfamiliar with Roman slave names would probably not identify them as slaves, therefore the unambiguous term slaves was used instead.

Other slave names, mentioned in stories about R. Gamliel, are Tabi and Tabita. R. Gamliel allegedly used these names for all of his slaves (cf. the *baraita* in y. Nid. 1: 5, 49b). They may have been the translation of the Greek name Dorcas (or Dorcas was the translation of an originally Semitic name).⁷¹ Rabbis' assumption that one and the same name was applied to all slaves of a household indicates the degree of depersonalization to which slaves were exposed.

EPIGRAPHIC EVIDENCE OF DENATIONALIZATION

As a consequence of the denationalizing effects of slavery one may assume that slaves' original ethnic and religious identity could easily be lost during the period of their enslavement, although at least some of

⁶⁹ Sivertsev, *Private Households*, 120–1, 124.

⁷⁰ *Ibid.* 124.

⁷¹ See Gordon, 'Nationality', 100.

them may have tried to maintain some vestiges of Jewishness to whatever extent their masters allowed them to. One may assume that slaves who were enslaved permanently or for many generations could easily lose their sense of a Jewish identity. War captives or debt slaves, on the other hand, had more recent memories of their past lives and may have hoped for an eventual end to their enslavement. Once they were manumitted, they may have returned to their family, religious community, homeland, and earlier way of life.⁷²

Klein believed that the names 'Africanus', 'Justus', and 'Epictetus', found in ossuary inscriptions from Jerusalem, were the names of former Jewish slaves who had returned to their homeland from the Diaspora after their manumission.⁷³ One of the so-called Goliath family ossuaries from first-century CE Jericho is identified in Greek as 'the ossuary of Theodotus, freedman of Queen Agrippina'.⁷⁴ This Theodotus was probably taken to Rome as a slave and later manumitted by his illustrious mistress. After his manumission he returned to his homeland and was buried with his relatives when he died. Another example of first-century Jewish freedmen who returned to the land of Israel after their manumission is the family of Theodotus commemorated in an inscription found in Jerusalem: the family established a synagogue as a meeting place and hostel (for other Jewish freedmen from the Diaspora?) at a time when the Temple was still existing.⁷⁵

⁷² Bohak, 'Ethnic Continuity', 180 lists three possible ways in which Phoenician immigrants abroad coped with their Diaspora existence: (a) they may have severed all ties with their past and assimilated completely into their host society; (b) they may have eventually returned to their country of origin; (c) they may have 'settled in distant lands but maintained some elements of their ancestral identity'. These options will have been available to diaspora Jews as well.

⁷³ Samuel Klein, *Jüdisch-palästinisches Corpus-Inscriptionum*, Vienna and Berlin 1920, 30. Cf. inscriptions nos. 78, 87, 98. One could also argue that their corpses or bones may have been brought to Jerusalem only after their death, but Isaiah M. Gafni, *Land, Center and Diaspora: Jewish Constructs in Late Antiquity*, Sheffield 1997, 84, has shown that tannaitic sources do not mention the practice: 'As noted, up to the days of R. Judah the Patriarch we have no reliable source attesting to the practice or ideology later attached to burial in the Land'.

⁷⁴ See Rachel Hachlili, 'The Goliath Family in Jericho: Funerary Inscriptions from a First Century A.D. Jewish Monumental Tomb', *Bulletin of the American Schools of Oriental Research*, 235 (1979), 33, inscription no. 3.

⁷⁵ See Lea Roth-Gerson, *The Greek Inscriptions from the Synagogues in Eretz Israel* (Heb.), Jerusalem 1987, no. 19.

Another first-century Jew from Jerusalem captured by the Romans and taken to Roman Italy, known from an inscription, stayed in the Diaspora after her death. A Latin epitaph which may originate from Naples refers to

Claudia Aster, prisoner from Jerusalem [*H*ierosolymitana *ca*ptiva]. Tiberius Claudius Proculus (?), imperial freedman, took care [of the epitaph]. I ask you to make sure that no one casts down my inscription contrary to the law. She lived 25 years.⁷⁶

Despite her Latin name, Claudia Aster is most likely to have been of Jewish origin.⁷⁷ She was probably enslaved by the Romans during the first Jewish revolt. Noy assumes that her original name was Esther. Tiberius Claudius Proculus may have been her owner and later husband, after whom she was named Claudia. Her marriage may have been the reason for setting her free.⁷⁸ As an imperial freedman Tiberius Claudius Proculus will have had a relatively high status within Roman society.⁷⁹ Whether he was Jewish or gentile remains unclear.⁸⁰ That an originally Jewish woman from Jerusalem should have been married to a pagan freedman and decided to stay in Roman Italy after her manumission should not amaze us, though.⁸¹ What is more striking is the reference to her Jerusalemite origin, which suggests that she (and/or her commemorator) gave some significance to this aspect of her identity.⁸²

⁷⁶ Translation by David Noy, *Jewish Inscriptions of Western Europe*, vol. 1: *Italy, Spain, Gaul*, Cambridge 1993, no. 26.

⁷⁷ See also *ibid.* 45. ⁷⁸ See *ibid.*

⁷⁹ On the high status of imperial freedmen and their attractiveness as spouses see Catharine Edwards, *The Politics of Immorality in Ancient Rome*, Cambridge 1993, 163: 'They were the emperor's creatures, embodied reminders of his power to raise individuals to positions of enormous power from the lowest ranks of the "proper" social hierarchy (and, by implication, the power to cast others down as dramatically).'

⁸⁰ On Jewish freedmen in Italy see Gideon Fuks, 'Where Have All the Freedmen Gone? On an Anomaly in the Jewish Grave-Inscriptions from Rome', *Journal of Jewish Studies*, 36 (1985), 25–32.

⁸¹ For another case of a possibly Jewish woman married to an imperial slave see C. P. Jean-Baptiste Frey, *Corpus Inscriptionum Iudaicarum*, vol. 1, Rome 1936, no. 71: the inscription was set up by Claudia Sabbatis for her husband Clemens, imperial slave and guardian over an aqueduct. *Ibid.* 573 Frey comments on this inscription: 'si réellement Claudia Sabbathis fut juive, son judaïsme fut singulièrement accommodant. Mariée à un esclave de l'empereur, elle se fait ensevelir sous la protection de dieux Manes.'

⁸² The reference to Claudia Aster's Jerusalemite origin is very similar to a case described by Bohak, 'Ethnic Continuity', 178: a tombstone from Thessalian Demetrias of the 3rd cent. BCE mentions a certain Abdes, a Thyrian married to an Argive wife, who

A Jewish freedman who decided to stay in Roman Italy after his manumission may also be commemorated in a third-century CE inscription from Ostia:

For Marcus Aurelius Pylades, son of . . . , the Terentine tribe, . . . from Scythopolis, the first *pantomimus* of his time in . . . , and approved by the Emperors Valerian and Gallienus . . . from the province of Judaea . . . after the death of his father Juda. Also a decurion of the cities of Ashqelon and Damascus. To him, second, the order of the Augustales not only in memory of his father, but also because of his own consummate skill, with all the citizens demanding it equally.⁸³

Like Claudia Aster, Marcus Aurelius Pylades was commemorated under his Latin name but was of Jewish and Judaeian origin. That he has three names, the first two of them those of a Roman emperor, might indicate his freed slave status.⁸⁴ Pylades may have been the added cognomen, the slave's personal name. Rutgers has emphasized that inscriptions from the third century onwards usually lack any references to the deceased's freedman status.⁸⁵ That his father is mentioned in the inscription would be unusual for a slave, however. That a Jew from Roman Palestine should become a prominent pantomime, honoured by the pagan order of the Augustales in Ostia, is striking but was probably not unusual in the mixed cultural environment of the time. Whether Pylades himself or his father was a decurion,⁸⁶ and the relationship between the mentioned geographical locations (Scythopolis, Ashqelon, Damascus, Judaea, Ostia) remains unclear.

It is often difficult, if not impossible, to determine whether the (freed) slaves and/or masters mentioned in inscriptions were Jewish or pagan. Originally pagan slaves who had lived within Jewish families for

'was still very much aware of his Thyrian origin'. Bohak assumes that he was nevertheless 'already on his way to full assimilation, and his descendants, if he had any, would have proceeded on the same route' (ibid.).

⁸³ Translation by Noy, *Jewish Inscriptions*, vol. 1, no. 15.

⁸⁴ See Rutgers, *Jews*, 168: 'As many as 70% of the inscriptions from Rome that carry triple names relate to freedmen/women rather than to freeborn'. See also Lily Ross Taylor, 'Freedmen and Freeborn in the Epitaphs of Imperial Rome', *American Journal of Philology*, 82 (1961), 117 f.

⁸⁵ Rutgers, *Jews*, 169.

⁸⁶ Noy, *Jewish Inscriptions*, 29 writes: 'There is no reason why a Jew should not have been a decurion; the undertaking of municipal offices by Jews was actively encouraged by legislation of Severus and Caracalla (Digest 1 2.3.3.).'

many years may have identified themselves as Jewish after their manumission. For example, an inscription at Beth She'arim was set up for 'Calliope, the elder [or: superintendent of the household],⁸⁷ the freed-woman of Procopius, of blessed memory'.⁸⁸ Whether Calliope was an originally Jewish woman who returned to Judaism after being manumitted by her (pagan?) master, or whether she was a pagan slave who was brought 'under the wings of the *Shekhinah*' during her enslavement to a Jewish master remains unknown. Similarly, Severus, 'the *threptos* of the very illustrious patriarchs', who donated money to the mosaic floor of the synagogue in Chammat Tiberias, may have been of pagan origin.⁸⁹ He seems to have been an abandoned child raised as a son or slave by the patriarchal family.⁹⁰

Both the literary texts and the inscriptions show, then, that common distinctions between Jews and gentiles could not be maintained as far as slaves were concerned. During the period of their enslavement they were seen as blank slates whose identity was determined by the masters whose extensions they were. If their masters were committed Jews, they will have required their gentile slaves to accommodate to their Jewish lifestyle. If their masters were gentile, they will have prevented their Jewish slaves from observing Jewish customs and forced them to submit to a gentile, pagan way of life. The 'ideal' case of Jewish slaves under Jewish masters may have hardly ever occurred or not have been so perfect either: those (few?) Jews who heeded rabbis' admonitions may have bought Jewish slaves in order to redeem them, whereas most Jewish slave owners may have been as reckless as their gentile counterparts. They were more interested in the exploitation of slaves' labour than in their preservation of a Jewish identity. Of course some Jewish slave

⁸⁷ The Greek term *μίζοτέρας* refers to a superintendent or manager of a household.

⁸⁸ See Moshe Schwabe and Baruch Lifshitz, *Beth She'arim*, vol. 2: *The Greek Inscriptions*, Jerusalem 1974, no. 200.

⁸⁹ See Roth-Gerson, *Greek Inscriptions*, nos. 16 and 18; Leah Di Segni, 'The Inscriptions of Tiberias' (Heb.), *Idan*, 11 (1988), nos. 29 and 30.

⁹⁰ On *threptoi* as abandoned children see John Boswell, *The Kindness of Strangers: The Abandonment of Children in Western Europe from Late Antiquity to the Renaissance*, London 1988, 118. On the exposure of children in Roman and Jewish society in antiquity see Catherine Hezser, 'The Exposure and Sale of Infants in Rabbinic and Roman Law', in Klaus Herrmann *et al.* (eds.), *Jewish Studies between the Disciplines. Judaistik zwischen den Disziplinen*. Papers in Honor of Peter Schäfer on the Occasion of his Sixtieth Birthday, Leiden 2003, 3–28. Child exposure is discussed in more detail in Ch. 6. For the Severus inscriptions see Ch. 4 below.

owners may have stood in between these extremes and allowed their slaves to maintain some Jewish practices. The extent, however, to which he was able to maintain a Jewish identity was not determined by the slave himself but by his master.⁹¹

⁹¹ Peter Lampe, 'Urchristliche Missionswege nach Rom: Haushalte paganer Herrschaft als jüdisch-christliche Keimzellen', *Zeitschrift für die Neutestamentliche Wissenschaft*, 92 (2001), 123–7, argues that some pagan masters allowed their slaves to maintain Jewish practices and that their Jewish slaves and freedmen even founded synagogues in Rome. Although we may assume that some freedmen eventually returned to their religion of origin, that they were allowed to continue Jewish observances while enslaved seems unlikely. Unlike Christianity Judaism focuses on practices rather than beliefs and these practices will have seriously interfered with slaves' usefulness in pagan households.

2

The Slave as Chattel and Human Being

THE denationalization or ‘deracination’ of slaves, the fact that they were seen as non-persons without a proper identity, was based on the identification of slaves with animals and other types of property in the ancient (upper-class) imagination. Those who identified slaves with animals would ignore all aspects of their human identity such as their personal names, ancestry, and religion. This dehumanization and depersonalization allowed slave masters to treat their slaves in a degrading and exploitative way.¹ Nevertheless, human traits could not be destroyed entirely and masters had to take them into consideration. Slaves ‘retained human intelligence and emotion in bodies no longer their own’.² Despite their physical submission to their masters, they were not entirely passive beings. They could benefit their masters through their knowledge and skills or act against their interests and constitute a danger for them and their families. This ability set certain limits to their masters’ power and created a situation of mutual dependency.

THE ‘NATURAL SLAVE’ THEORY AND THE ANIMALIZATION OF SLAVES

In his *Politics* Aristotle distinguishes between people who ‘are free men and others slaves by nature’ (1255a) and defines the ‘natural slave’ as follows: ‘One who is a human being belonging *by nature* not to himself but to another is *by nature* a slave’ (1254a). This theory is rather blurry,

¹ On slaves’ depersonalization see also Meillassoux, *Anthropology*, 107–9.

² Keith Bradley, ‘Animalizing the Slave: The Truth of Fiction’, *Journal of Roman Studies*, 90 (2000), 120.

since it does not specify what enslavement ‘by nature’ means and leaves open the question of which slaves fall into this category.³ Nevertheless, Aristotle seems to have believed that certain types of individuals and collectivities were naturally conditioned to be slaves, that slavery was not contrary to but fitting with their natural state of being. The natural slaves were considered to be essentially different from the free. They were seen as subhuman and worthy of subjugation. Since they were generally identified with non-Greeks or ‘barbarians’, Isaac concludes: ‘This view of nature and humanity is proto-racist by definition.’⁴ One function of the theory was to justify slavery within the ancient polis. Another function was the legitimation of imperialist ideology.

The natural slave is said to ‘participate in reason so far as to apprehend it but not to possess it; for the animals other than man are subservient not to reason, by apprehending it, but to feelings’ (1254^b). Again, it remains uncertain to what extent slaves lack reason and, on the other hand, participate in it. Later on Aristotle attributes a minimum of virtue to slaves, just as much as is necessary to obey their masters’ commands: ‘And we laid it down that the slave is serviceable for the mere necessities of life, so that clearly he needs only a small amount of virtue, in fact just enough to prevent him from failing in his tasks owing to intemperance and cowardice’ (1260^a). Both slaves and animals were allegedly created for their masters’ service only. Garnsey and Isaac stress that traces of the natural slave theory appear in a number of other contemporary and later Greek and Roman writers as well.⁵

Aristotle’s theory of natural slavery involved the comparison of slaves with animals rather than with human beings capable of rational discourse (*logos*) and able to distinguish between right and wrong. From a different perspective agricultural writers such as Cato and Varro recommend slave owners to treat their slaves like animals as far as food, abandoning the sick, and accommodation are concerned.⁶ In Apuleius’ *The Golden Ass* or *Metamorphoses* the sudden transformation from human being (free person) to animal (slave) is described in all of its

³ See Peter Garnsey, *Ideas of Slavery from Aristotle to Augustine*, Cambridge 1996, 108. For a detailed discussion of Aristotle’s theory see also Isaac, *Invention*, 172–81; for secondary literature on the issue see his bibliographical note *ibid.* 171 n. 3.

⁴ Isaac, *Invention*, 177.

⁵ Garnsey, *Ideas*, 38; Isaac, *Invention*, 181–6.

⁶ See Bradley, ‘Animalizing’, 110 with references.

ramifications: 'the transformation of Lucius can be taken as a paradigmatic illustration of the animalization of the slave in real life, and as a guide to the meaning of animalization in the master–slave relationship'.⁷ Bradley concludes that 'the ease of association between slave and animal . . . was a staple aspect of ancient mentality'.⁸

Slaves were seen as similar to animals in three regards: First, they had to work like animals for their owners and were not paid for it. Like animals, sick and old slaves were considered a burden to be discarded rather than supported and maintained. Secondly, slaves' bodies could not be protected against physical abuse and sexual exploitation. Slaves had no control over their bodies, which were their owner's property. Thirdly, slaves were sold like animals and subjected to humiliating examinations of physical defects.⁹ These aspects of the animalization of the slave served to 'give his owners complete control over him with little danger of their will being denied'; for the slave owners the 'animalization reemerges as a mechanism of empowerment'.¹⁰ By being treated like animals slaves would eventually lose their 'power of reason and intellect' and 'tolerate the physical hardships and degradations of slavery in a way that human beings normally could not'.¹¹

As already pointed out above, the Torah distinguishes between Hebrew and foreign slaves and admonishes slave owners to apply the harsh exploitative treatment to gentile slaves only: 'Such you may treat as slaves' (Lev. 25: 46). In the stories about the patriarchs slaves are said to have been bought alongside animals: in Egypt Abraham 'acquired sheep, oxen, asses, male and female slaves, she-asses, and camels' (Gen. 12: 16); Jacob sends a message to Esau telling him that he has 'acquired cattle, asses, sheep, and male and female slaves' (Gen. 32: 5). Isaac's slaves are subjected to hard physical labour such as digging wells (Gen. 26: 19). It is especially noted that Solomon refrained from imposing forced labour on any Israelites (1 Kgs. 9: 22). Otherwise slaves' menial tasks are rarely mentioned in the Bible. The physical punishment of slaves is taken for granted: 'A slave cannot be disciplined by words. Though he may comprehend, he does not respond' (Prov. 29: 19). Violence against

⁷ Ibid. 113. ⁸ Ibid. 110.

⁹ On these three aspects of the animalization of slaves in Apuleius' *Metamorphoses* see Bradley, 'Animalizing', 115–16.

¹⁰ Ibid. 116. ¹¹ Ibid. 119.

slaves was probably so common that the master's abuse of his power had to be curtailed. Exod 21: 20–1 rules: 'When a man strikes his slave, male or female, with a rod, and he dies there and then, he must be avenged. But if he survives a day or two, he is not to be avenged, since he is the other's property.' Only physical violence which leads to the slave's immediate death is considered punishable here, whereas the slave's survival suggests that the master did not have the intention to kill him but tried to discipline him only, a practice which is allowed, since the slave is his master's property.

Josephus mentions a number of cases in which slaves were tortured and/or killed by their masters, and such treatment was accorded household slaves who lived in the close proximity of and were probably once trusted by their masters.¹² Even domestic slaves who were their master's confidants were not protected against his sudden mistrust and outbursts of anger.

PHILO'S DISTINCTION BETWEEN SLAVES AND ANIMALS

Despite the biblical permission to treat one's gentile slaves 'like slaves', that is, in a harsh and unrelenting way, and references to the purchase and usage of slaves alongside cattle, in Philo's writing clear distinctions between slaves and animals are made. It is stressed that slaves possess certain qualities which animals lack and that therefore different rules must apply to them. In *De spec. leg.* 2. 69 Philo writes in relation to Exod. 20: 10 ('but the seventh day is a Sabbath of the Lord your God: you shall not do any work—you, your son or daughter, your male or female slave, or your cattle, or the stranger who is within your settlements'):

But the holiday of the Sabbath is given by the law not only to servants but also to the cattle, though there might well be a distinction. For servants are free by nature, no man being naturally a slave [*ἄνθρωπος γὰρ ἐκ φύσεως δούλος*

¹² See e.g. *Bell.* 1. 584–6; *Ant.* 5. 41, 15. 226, 16. 230–3, 17. 44–5, 17. 55, 66, 79. Slave testimony was customarily taken under torture in Roman society, see Joshel, *Work*, 31.

οὐδαίς], but the unreasoning animals are intended to be ready for the use and service of men and therefore rank as slaves.

According to Philo, reason distinguished slaves from animals and linked them to other human beings. Later in the same chapter he admonishes slave holders not to treat slaves like ‘reasonless animals’ as far as their workload is concerned (*De spec. leg.* 2. 83).

In his tractate on the subject of slavery, *Quod omnis probus liber sit* (Every Good Man is Free) Philo takes up the common equation of slaves with animals and subverts it by applying it to all human beings except for the wise (who may well be slaves in real life): ‘the multitude, who are like cattle, require a master and a ruler and have for their leaders men of virtue, appointed to the office of governing the herd’ (30). The basic anthropological distinction between body and soul allows Philo to maintain that one may be a slave as far as one’s body is concerned while one’s soul remains free unless one gives in to uncontrollable passions: ‘Slavery then is applied in one sense to bodies, in another to souls: bodies have men for their masters souls their vices and passions’ (17). Truly free souls can never be enslaved: ‘if lions cannot, still less can the wise man be enslaved, who has in his free and unscathed soul a greater power of resistance to the yoke’ (40). Only those who give in to their passions and emotions and are governed by them can be compared to animals and slaves.

Philo’s opposition to natural slavery and the idea that slaves could be reasonable beings (and the freeborn unreasonable) were shared by the Stoics and early Christians such as Paul.¹³ Whether Philo was influenced by the Stoics or reached his conclusions on the basis of biblical exegesis and his own moral thinking remains uncertain, though.¹⁴ The distinction between slaves and animals and the emphasis on reason and self-control as basic human characteristics, which even those who are enslaved can maintain, stand in opposition to Aristotle’s theory of natural

¹³ Stoics: cf. Cic. *De fin.* 3. 67; Diog. Laert. 7. 129. On the Stoic opposition to natural slavery see also Miriam T. Griffin, *Seneca: A Philosopher in Politics*, Oxford 1992, 257: ‘The principal philosophical dogma in Seneca’s thought is that there are no natural slaves: all men share in the divine reason and thus may claim the gods as ancestors; servitude, like all social ranks . . . is the work of fortune . . .’. Early Christians: cf. 1 Cor. 7: 22, Col. 3: 23–4, Gal. 4: 1–7; emphasis on spiritual slavery and freedom, see Garnsey, *Ideas*, 173–88.

¹⁴ See Garnsey, *Ideas*, 129–30.

slavery mentioned above. For Philo, no one is born to be a slave; one can become a slave through external circumstances (captivity, kidnapping, poverty) only. This slavery is not seen as real enslavement, though. Real enslavement is a self-inflicted evil, caused by one's own transgressions and improper states of mind. This real enslavement can be avoided by striving for wisdom.

The consequence of Philo's and the Stoics' insistence on the human qualities of slaves, which distinguished them from unreasonable animals, were admonitions to masters to treat their slaves mildly and to regard them as fellow human beings. While the Stoics 'deduced from this doctrine only the most minimal principles of humane treatment', however, Seneca went further, 'regarding the slave as entitled to everything covered by man's duty to man'.¹⁵ This means that the slave could be seen and 'treated as a social equal, admitted to conversation, asked for advice, and invited to the master's table regularly'.¹⁶ Cicero and Pliny had personal slaves with whom they were friendly and whom they regarded with admiration and respect.¹⁷ Pliny stresses that grief on the occasion of such slaves' death is allowed, in contradiction to those 'who regarded the loss of a slave as a mere *damnum* and took this attitude to show that they were *sapientes*'.¹⁸

Philo urges masters to treat their slaves mildly as far as fellow-Jewish slaves, whose poverty had caused them to become debt slaves, were concerned: they are to be regarded as fellow human beings, members of the Jewish people (cf. *De spec. leg.* 2. 82). He stresses, though, that slaves, especially non-Jewish slaves, are indispensable (*ἀναγκαιότατον κτήμα*) for fulfilling many necessary tasks in everyday life (*μυρία γὰρ τῶν ἐν τῷ βίῳ πραγμάτων ποθεῖ τὰς ἐκ δούλων ὑπηρεσίας*, *ibid.* 2. 123).¹⁹

¹⁵ Griffin, *Seneca*, 257–8. On the Stoics see also P. A. Brunt, 'Aspects of the Social Thought of Dio Chrysostom and of the Stoics', *Proceedings of the Cambridge Philological Society*, 199 (NS no. 19) (1973), 18: 'Of course Stoics urged masters to treat their slaves justly and kindly. . . . But one constantly feels that Stoics were concerned rather with the moral evil involved in injustice than with the sufferings of the slaves.'

¹⁶ Griffin, *Seneca*, 259 with reference to Seneca, *Ep.* 47. 13.

¹⁷ See *ibid.* 261, with reference to Cicero, *Fam.* 16. 1–15; *Att.* 1. 12, 4; Pliny, *Ep.* 5. 19.

¹⁸ *Ibid.* 262 with reference to Pliny, *Ep.* 8. 16.3; cf. Cicero, *Att.* 1. 12, 4 and Martial 5. 37, 20. The very similar discussion between R. Gamliel and rabbis on the occasion of the death of R. Gamliel's slave Tabi will be discussed below.

¹⁹ This attitude seems to have been shared by Paul, see John M. G. Barclay, 'Paul, Philemon and the Dilemma of Christian Slave-Ownership', *New Testament Studies*, 37 (1991), 184: 'Paul could not imagine how the wealthier members of his churches could retain their social status or their houses without the ownership of slaves'.

Therefore escaped slaves should find a sanctuary in one's house but should then be returned to their masters who would, hopefully, forgive them or sell them to someone else (cf. *De virt.* 124).

The distinction between body and soul and the emphasis on enslavement to passions, wrong thoughts, and emotions as the real slavery enabled Philo, the Stoics, Seneca, and early Christian writers to encourage the slave's spiritual development. This also meant, however, that the actual bodily enslavement was not considered so important and that slaves were not urged to escape but rather to give in to their fate.²⁰ To some extent, then, these teachings helped to maintain the status quo of slavery as an indispensable institution within ancient society.²¹

J E W S A S N A T U R A L S L A V E S ?

Philo's opposition to the natural slave theory may also have been a reaction to the common Graeco-Roman identification of Jews with slaves, which probably increased as a consequence of the Roman conquest of Palestine but may have existed in earlier times as well. Concerning Gabinius, who gave free reign to tax collectors, Cicero writes: 'Then, too, there are those unhappy revenue farmers . . . He [Gabinius] handed them over as slaves to Jews and Syrians, themselves peoples born to be slaves' (*De prov. cons.* 5. 10). The reference to Jews and Syrians as 'people born to be slaves' recalls the natural slave theory, expressed by Aristotle, which is now applied to particular nations, nations subjected to Roman dominion.²²

Traces of this identification are also to be found in Josephus' writing. Paraphrasing the biblical story of Esther Josephus writes: 'But Mordechai

²⁰ See also Griffin, *Seneca*, 260; Garnsey, *Ideas*, 176–9, with reference to 1 Cor. 7: 20 ('Everyone should remain in the state in which he was called'), Col. 3: 22 ('Slaves, obey in everything those that are your earthly masters'), 1 Peter 2: 18 ('Slaves, be submissive to your masters with all respect'). On 1 Cor. 7: 20–4 see Franz Laub, *Die Begegnung des frühen Christentums mit der antiken Sklaverei*, Stuttgarter Bibelstudien 107, Stuttgart 1982, 63–7. See also Barclay, 'Paul', 185.

²¹ See Keith Hopkins, *Conquerors and Slaves: Sociological Studies in Roman History*, Cambridge 1978, 122; Ste. Croix, 'Early Christian Attitudes', 17.

²² See Isaac, *Invention*, 183 and 317, where he writes: 'It is important to note that Cicero is not the only one to describe eastern peoples as "born for slavery". Livy does so too . . .' (cf. Livy 36. 17. 4–5: Syrians and Asiatic Greeks).

because of his wisdom and his native law would not prostrate himself before any man, and Haman, having observed this, inquired from what people he came. And when he learned that he was a Jew, he became indignant and remarked to himself that whereas the freeborn Persians prostrated themselves before him, this man, who was a slave, did not see fit to do so' (*Ant.* 11. 210–11). When Haman heard that Mordechai was a Jew he immediately identified him as a slave and distinguished him from the 'freeborn Persians'. A similar phenomenon is related in the book of Judith. When Assyrian leaders came to Holophernes' tent they allegedly said to his steward: 'Wake our master. These slaves [that is, the Jews] have the audacity to offer us battle; they are asking to be utterly wiped out' (14: 13). When Bagoas notices that Holophernes is dead, he runs out shouting: 'The slaves have played us falsely' (v. 18). Again, the Jewish opponents are identified as slaves not because they were actually enslaved but on the basis of their ethnicity. They were amongst those ethnic groups whom at least some Greeks and Romans considered 'natural slaves' and could therefore legitimately subject to their political domination.

On the other hand, some biblical and rabbinic texts might give the impression that at least some ancient Jews considered certain other people slavish too, and that this slavishness was Divinely legitimized. According to Gen. 9: 25–7,

He [Noah] said: Cursed be Canaan. The lowest of slaves [lit.: slave of slaves] shall he be to his brothers. And he said: Blessed be the Lord, the God of Shem. Let Canaan be a slave to them. May God enlarge Japhet, and let him dwell in the tents of Shem. And let Canaan be a slave to them.

This idea later reoccurs in rabbinic midrash, commenting on this verse:

The Canaanites said: From their Torah we learn and come to them [with claims]. Everywhere [in their Torah] it is written 'the land of Canaan'. Let them give us back our land. He [Gebiah b. Qosem, the enchanter, see previous midrashic context] said to him [to Alexander of Macedon, see context]: My Lord, the king, does a person not do what he likes with his slave? He said to him: Yes. [He said to him:] And is it not written: 'A slave of slaves he [Canaan] shall be to his brothers' [Gen. 9: 25]? Now [it is clear that] they are our slaves. And they fled and went away in shame (Gen. R. 61: 7).

Here the notion of the Canaanites as slaves is used to dismiss their claims to regain their territory.

Like the Canaanites the Gibeonites were believed to stand under the curse of slavery. In Josh 9: 23 Joshua says to the Gibeonites: 'Therefore be accused! Never shall your descendants cease to be slaves, hewers of wood and drawers of water from the House of my God.' In distinction from the natural slave theory promulgated by ancient Greek philosophers such as Aristotle, however, these texts do not suggest that the Canaanites and Gibeonites were 'by nature' born to be slaves; they rather incurred this predicament by their sinful behaviour towards Noah and Joshua, respectively. Permanent slavery is envisioned as God's punishment of the Canaanites' and Gibeonites' misconduct (against Noah and Joshua as God's representatives) here.

AMBIGUITIES IN RABBINIC AND ROMAN LAW

Both rabbinic halakhah and Roman legal texts indicate a fundamental ambiguity over the legal definition of slaves: on the one hand, slaves are seen as things and compared with animals rather than with other human beings;²³ on the other hand, in some areas of law, certain aspects of slaves' human nature, in contradistinction from animals, is taken into account.²⁴ This basic ambiguity, the blurred boundaries between slaves and animals on the one hand and slaves and free persons on the other, underlies all areas of rabbinic and Roman slave law and seems to have also been evident in daily life: 'Though the slave's humanity was legally and philosophically problematic . . . slave owners knew that their slaves were humans as well as chattel, and in this respect living with slaves involved living with contradiction'.²⁵

In a number of Roman legal texts slaves are defined as property alongside other types of property such as cattle, houses, and land. Slaves are classified as *res mancipi*, as the following text from Gaius' *Institutes* indicates:

²³ On the slave's definition as chattel in Roman law see especially William W. Buckland, *The Roman Law of Slavery: The Condition of the Slave in Private Law from Augustus to Justinian*, Cambridge 1970 (repr. of 1908 edn.), 10–38.

²⁴ See *ibid.* 73–238 on the various aspects of slaves as men.

²⁵ William Fitzgerald, *Slavery and the Roman Literary Imagination*, Cambridge 2000, 7.

There is a further division of things: for they are either *mancipi* or *nec mancipi*. *Mancipi* are, for instance, land on Italian soil, likewise buildings on Italian soil, likewise slaves and those animals that are commonly broken in for draught or burden, such as oxen, horses, mules, asses (Gaius, *Inst.* 2. 14a).²⁶

The *Digest* transmits the following explanation for using the term *mancipia* in connection with slaves, an explanation taken from an earlier textbook for law students, Florentinus' *Institutes*:

The word for property in slaves (*mancipia*) is derived from the fact that they are captured from the enemy by force of arms (*manu capiantur*) (Florentinus, *Inst.* 9, in *Dig.* 1.5).²⁷

The term was not applied to war captives only, however, but to purchased and home-bred slaves as well.

The classification of slaves as *res mancipi* had consequences with regard to other aspects of Roman law. With regard to transferring the ownership of slaves from one person to another, for example, a formal ceremony called *mancipatio* was necessary to validate the sale.²⁸ As Alan Watson has pointed out, 'res mancipi represented the more important class of property in an early agricultural society: the stress is obviously laid on what was useful for farmers'.²⁹ The distinction between the two types of property was maintained throughout late antiquity until it was abolished by Justinian.³⁰

In rabbinic sources the classification of slaves with other types of property and their identification as things and objects is implied in many halakhic rulings but rarely stated explicitly. One of the few texts which explicitly compares slaves with animals is a statement (which may be a *baraita*) quoted within a story in y. Ber. 2: 8, 5b. In order to explain why he does not accept consolation on behalf of his deceased slave woman, R. Eliezer tells his students: 'And have they not said: One does not accept condolences on behalf of slaves because slaves are like cattle [העבדים כבהמה]?' Like cattle slaves are replaceable objects whose humanity is considered irrelevant: 'To one whose slave or animal had died one says: May God restore your loss' (ibid.).

²⁶ Quoted in accordance with Alan Watson, *Roman Slave Law*, Baltimore and London 1987, 47.

²⁷ Quoted in Thomas E. J. Wiedemann, *Slavery*, Oxford 1987, 15.

²⁸ See Watson, *Slave Law*, 47–8. ²⁹ Ibid. 47. ³⁰ Ibid.

The comparison of slaves with animals also appears in Gen. R. 56: 2 (pp. 595–6 in the Theodor–Albeck edition), which comments on Gen. 22: 5 (‘Then Abraham said to his servants: You stay here with the ass . . .’):

[A] He [Abraham] said to him [Isaac]: ‘my son, do you see what I see [that is, the cloud which shows him the place where he should offer his son]?’ He said to him: ‘Yes’. He said to his two young men [the accompanying slaves]: ‘Do you see what I see?’ They said to him: ‘No’. He said: ‘Since you do not see, stay here with the ass, since you are similar to the ass [שאתם דומים לחמור].’

[B] From where do we derive that the slaves are similar to the ass [שהעבדים דומים לחמור]? Rabbis derive proof for it from [the issue of the] giving of the Torah: ‘Six days you shall work and do all your work . . . , your male slave, your female slave, your cattle’ [Exod. 20: 10].

The creative retelling of the biblical story in [A] clearly distinguishes between Abraham’s son Isaac and the two slave boys with regard to their spirituality, that is, their awareness of Divine guidance. Since the slaves are depicted as lacking in this regard, they are classified as animals, together with the asses, rather than as human beings. This comparison of the slaves with asses is taken up in [B], where it is further explained and legitimized on the basis of Scripture: since slaves are mentioned next to cattle in Exod. 20: 10 (Sabbath rest), they are considered to be similar to them in certain regards.

The implicit identification of slaves with objects and pieces of property is much more common in rabbinic sources than such explicit equations. For example, according to M. Git. 2: 3 and T. Git. 2: 4, a divorce document may be written on the hand of a slave who would then be given to the wife to effect a valid divorce. The slave’s body functions as a mere writing surface here.³¹ Slaves like houses, fields, and other types of property can be acquired through usucaption (see M. Qid. 1: 3: Canaanite slaves; M. B.M. 3: 1: slaves in general),³² without a

³¹ On the usage of slaves’ skin as a writing surface see also Page DuBois, *Slaves and Other Objects*, Chicago and London 2003, 3–4, with reference to Herodotus, *Hist.* 5. 35: the slave’s scalp is used as a ‘writing tablet’ to submit a message from one person to another: ‘Here the skin of the slave, at the master’s disposition, becomes a surface, a device for communication like the wax-covered wooden tablet that the Greeks used for writing. The skull of this nameless slave is like the wooden tablet, the skin of his scalp its wax.’

³² See also T. Qid. 1: 5, where usucaption in connection with slaves is further explained as making use of slaves: ‘What is usucaption of slaves? He tied on his sandal, and he loosened his sandal, and he carried after him utensils [or: clothing] to the bathhouse, this is usucaption.’

document.³³ Slaves, just like fields, vineyards, and cattle may be sold by guardians to feed orphans (T. Ter. 1: 10).³⁴ Like animals, they may be hit by their masters without incurring indemnity (cf. M. B.Q. 4: 8: Canaanite slaves; T. B.Q. 9: 24: slaves in general).³⁵ They may be marked with a tattoo to prevent their escape (T. Makk. 4: 15).

On the other hand, in rabbinic texts, just as in Philo's writings, clear distinctions between slaves and animals are made. Like Philo certain Mishnah texts attribute rational thinking, and therefore the ability to know what is right and wrong, to slaves in contrast to animals. This distinctly human capacity required a halakhic distinction between slaves and animals with regard to damages:

[A] Sadducees say: We cry out against you, Pharisees, for you say: My ox and my ass which did damage, they [their owners] are liable, but my male and female slave who did damage, they [their owners] are exempt. If in the case of my ox or my ass, concerning whom I am not liable with regard to commandments, I am liable for their damage, in the case of my male and female slave, concerning whom I am liable with regard to commandments, should it not be the law that I should be liable for their damage?

[B] They [Pharisees] said to them: If you say with regard to my ox and my ass, who do not have understanding [שאין בהם דעת], [that the owner should be liable for their damage], would you [likewise] say with regard to my male and female slave, who have understanding [שיש בהם דעת], [that the owner should be liable for their damage]? For if I make him [the slave] angry, he will go and set fire to someone else's stack [of corn], and I should be liable to pay?! (M. Yad. 4: 7).

The reference to reason in connection with slaves is attributed to Pharisees here. Slaves, unlike animals, are able to understand what is right and wrong, that is, one has to reckon with the possibility that they

³³ See also y. Qid. 1: 3, 59d on the issue of acquisition of slaves, which is 'treated under the same rubric as inherited real estate' (ibid.). A later *sugya*, however, states that 'there are Mishnah passages that maintain that slaves are equivalent to real estate; there are Mishnah passages that maintain that they are equivalent to movables; and there are Mishnah passages that maintain that they are neither like real estate nor like movables' (ibid.). These different possibilities are explicated at length in the following *sugyot*. The Yerushalmi text shows that rabbis were not unanimous on the question as to what kind of property slaves could be compared.

³⁴ But see T. Ter. 1: 11 and T. Ar. 5: 6–7: it is prohibited to sell fields or houses to buy slaves or cattle with the proceeds, whereas the opposite case is permitted. In comparison with real estate slaves and animals were obviously seen as inferior types of property.

³⁵ Rabbinic texts are not unanimous on this issue, though, see below.

damage other people's property deliberately, in which case their owner should not be held liable to pay. The intentionally evil behaviour explicated in the last sentence is very much formulated from the perspective of the householder and slave owner. The attribution of reason to slaves and viewing them as responsible subjects rather than irresponsible objects serves to protect the slave owner against having to pay fines for damages incurred by his slaves.

The same formula attributing reason to slaves is found in another Mishnah text as well:

One may stipulate terms [with an employer for monetary compensation instead of exercising the right of eating fruit] for oneself, for one's adult son and daughter, for one's adult male and female slave, for one's wife, because they have understanding [שֵׁשׁ בָּהֶם דַּעַת] but one does not stipulate for one's minor son and daughter, for one's minor male and female slave, and for one's cattle, since they do not have understanding [שְׁאִין בָּהֶם דַּעַת] (M. B.M. 7: 6).

The authors of this Mishnah seem to assume that adult slaves, just like adult relatives, would be able to understand the male family head's stipulation and thereafter refrain from eating produce,³⁶ whereas minor children, slaves, and cattle lacked such understanding to keep the terms of the agreement and might therefore incur damages. Interestingly, not only minor slaves but also freeborn children are classified together with cattle here, and reason is attributed to adult human beings in general, slaves included.³⁷

In Roman law slaves are viewed as human beings and subjects of their own actions in the same context as in rabbinic law, namely in connection with damages, if they were incurred without the master's knowledge:³⁸ 'If he [the slave] killed without the master's knowledge, the action is noxal because the master ought not be liable for a slave's wicked deed in more than that he surrender him for the harm . . . ' (*Dig.* 9. 4. 2,

³⁶ It is not clear whether he would keep the money for himself or give it to his adult children and slaves who would otherwise receive food. The Mishnah may also imply that adult dependants would be able to express their disagreement with the householder's action, if they preferred to eat from the produce.

³⁷ The equation of slaves, women, and minors is much more common in rabbinic sources.

³⁸ Otherwise one might think that the master had ordered his slave to execute the deed or that he knew of his intentions and did not prohibit him from carrying them out.

Ulpian, book 18 on the Edict).³⁹ Here, as in M. Yad. 4: 7, the slave is believed to be able to act wickedly, that is, to deliberately choose to act in an evil rather than in a virtuous way. The implication is that he can distinguish between good and evil, that he has reason.

Although slaves were legally defined as chattel, property, alongside other types of property such as cattle, houses, and real estate, particular legal circumstances required both rabbis and Roman jurists to treat slaves as human beings responsible for their own actions. A particular aspect of the slave's human nature, his knowledge of what is morally wrong, is either implied or explicitly stated in the discussion of damages caused by him. The recurrence to the slave's 'understanding' and intentions serves to exculpate the slave master here.

³⁹ Quoted in Watson, *Slave Law*, 68.