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What Was Jewish about Jewish Slavery in Late Antiquity?

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Just like other late antique societies, Jewish society in late antique Palestine was a slaveholding society in which slavery was a common phenomenon of daily life.¹ Even though the proportional numbers of slaves within the population would not have reached the extent of Roman mass slavery, many similarities existed between Jewish and Roman slave practices and attitudes towards slaves.² At the same time, we must ask whether Jews, who were subjugated to Roman and Byzantine Christian imperial rule and considered the Torah³ their most authoritative moral guide, developed different perspectives on slavery and treated slaves differently than non-Jewish Romans, whether pagan or Christian, in late antiquity. Was there something specifically Jewish about Jewish slaveholding practices in late antiquity? Did Jews, who commemorated the Exodus from Egyptian slavery in the annual Passover holiday and who were seen as a 'servile' people by Roman rulers, develop alternative approaches to slavery?

I have to state at the outset that Jewish literary evidence from late antiquity consists of rabbinic literature only. The late antique rabbinic anthologies of the Palestinian and Babylonian Talmuds and Amoraic Midrashim deal with slaves and slavery from a specific rabbinic perspective; that is, they present the views of the self-styled rabbinic religious and intellectual elite. Although the practices of non-rabbinic Jews are also occasionally mentioned in these literary works, whatever is said about

¹ Hezser 2005, 389.

² Hezser 2016, with examples.

³ I.e. the Pentateuch.

slavery here represents rabbinic views that were not necessarily shared by other late antique Jews and do not necessarily reflect social reality. Rabbinic views and practices transmitted in the Babylonian Talmud must be examined in the context of Sasanian Persian culture. The focus here will be on late antique Palestinian rabbinic views that developed in the context of Roman-Byzantine society. There are no archaeological and few epigraphic sources available to complement, support, or challenge the image that rabbinic texts create. Therefore, we can only examine and compare slave rules and moral recommendations in rabbinic discourse about slavery rather than gain information about actual slave practices among Palestinian Jews. In the following discussion, the focus will be on aspects in which rabbis developed distinct viewpoints rather than on socio-economic commonalities between late antique Jewish and Roman-Byzantine society.

POVERTY, DEBT SLAVERY, AND SELF-SALE

Impoverishment through droughts, bad harvests, loss of land, heavy taxation, and large numbers of children seems to have sometimes forced householders to sell themselves or their children into slavery to compensate for debts or to simply allow their children to survive.⁴ In the Hebrew Bible, such sales of impoverished Israelites to wealthier compatriots are seen as temporary, at least as far as males are concerned.⁵ Daughters sold into slavery by their fathers were expected to be sexually (ab)used by their masters and therefore believed to be better off if they stayed in the master's household and were maintained by him.⁶ The biblical texts admonish the masters to manumit their Hebrew slaves in the seventh year.⁷ If the debt was not repaid, the situation could become permanent, however, a phenomenon which seems to have occurred quite regularly.⁸ The Hebrew Bible and the Gospels already contain numerous examples of such arrangements.⁹

⁴ Chirichigno 1993; Hezser 2005, 189, 233–7.

⁵ Lev. 25:39.

⁶ Ex. 21:7–11.

⁷ Ex. 21:2–3; Deut. 15:12.

⁸ Neh. 5:5; Jer. 34:9.

⁹ For references to debt slavery in the Hebrew Bible see Bartchy 1988, 541–2. In the Gospels, debtors are mentioned in the 'Our Father' prayer in Matt. 6:12 and its parallels (originally from the Sayings Source Q); see also Matt. 18:23–34 for the parable of the debt slave.

The seizure of a debtor's children in lieu of payment is mentioned in a rabbinic king-parable transmitted in the Midrash Sifre Deuteronomy.¹⁰ A householder is said to have borrowed a large amount of wheat from a king. When 'he sent [for payment], but he did not pay him anything, the king entered his house and seized his sons and daughters and put them on the auction block'.¹¹ Allegedly, the debtor lacked any documentation of a partial repayment of his debt.¹² The use of the parable in a late antique composition suggests that such evocations of the consequences of indebtedness for the family of the debtor were still plausible in that time period. Palestinian Jews were heavily taxed by Romans after the two revolts. By the third century, wealthy Jews were forced to become members of city councils and as such held responsible for 'producing the tax quotas demanded of their cities'.¹³ Smallholders who sold their produce to pay taxes could be left without food to feed their families. In the mentioned parable, the debtor's children are forcefully taken away from their homes and families. They are not meant to repay the debt through their (temporary) labour but lose their freedom permanently. The parable shows how easily freeborn Jews could become enslaved. The biblical recommendations to release (debt) slaves in the seventh year would have been useless in such cases.

In Roman society, debt bondage was abolished in the fourth century BCE.¹⁴ According to Joshel, this measure 'firmly divided slave from citizen and defined the physical integrity of the citizen against the vulnerability of the slave'.¹⁵ In Palestinian Jewish society, on the other hand, freeborn Jews' slippage into slavery seems to have still been a possibility in late antiquity, at a time when the Roman capture and enslavement of Jews that followed the revolts of the late first and early second centuries was mostly a memory of the past.¹⁶ The wealthy creditors were probably mostly

¹⁰ Sifre Deuteronomy is a tannaitic Midrash that was probably created in the third century CE; see Fraade 1991, 192n7.

¹¹ Sifre Deut. 26.

¹² Fraade 1983, 298–301 on the meaning of *apokbi*, 'pledge'.

¹³ Smallwood 2001, 496.

¹⁴ Joshel 2010, 54.

¹⁵ Ibid.

¹⁶ On the Roman capture and enslavement of Jews during and after the first revolt, see Flavius Josephus . *B.J.* 3.7.31 (303–4): Titus allegedly sold more than two thousand Jewish women and children as slaves; Joseph. *B.J.* 3.10.10 (539–41): more than thirty thousand Jews were enslaved under Vespasian.

fellow Jews, for poor Jews would be more likely to ask them rather than non-Jews for a 'loan in the form of subsistence or grain'.¹⁷

It seems that rabbis' awareness of the hardships of some of their fellow Jews caused them to allow the sale of oneself into slavery under certain circumstances. Whereas they generally prohibited self-sale, which would reverse God's liberation of the Israelites from slavery in Egypt, they exempt the poor person from this prohibition.¹⁸ The reason behind this ruling may be that hard work as a slave may be preferable to the death of one's family members from starvation. The self-sale is recognised as a proper sale: 'and if he sold [himself], behold, this one is sold'.¹⁹ In this case the self-sale is not associated with debt, but with the purchase of work equipment (cattle, utensils, slaves) from the proceeds. The assumption seems to be that a poor householder might sell himself into slavery to a wealthier person to enable his family to maintain their smallholding. The self-sale to purchase slaves is rather odd. Perhaps the tradents imagined that the proceeds from self-sale might enable the family to purchase two younger and/or more able-bodied slaves. In the text's parallel in Sifra, the purchase of slaves is not mentioned and a biblical proof-text is added: 'From where [do we know] that a person is not permitted to sell himself and to leave [the proceeds] in his money-bag or to purchase for himself utensils or to purchase for himself a house, unless he is a poor person? Scripture says: "And if he becomes poor and sells himself [Lev. 25:39]"'.²⁰ Probably because of the dangers of sexual abuse, the Mekhilta limits self-sale to men.²¹ Like Sifre Deuteronomy above, the Tosefta, Sifra, and Mekhilta point to the third century as the time when poverty might have led to debt slavery and self-sale. While debt slavery could easily wreck a family, self-sale was meant to ensure its survival.

Rabbis also allowed fathers to sell their daughters into slavery. According to Mishnah Sotah 3:8, 'a man sells his daughter, but a woman does not sell her daughter'. Poor families may have wanted to get rid of daughters because they contributed less to the family's income or because they could not afford to give them a dowry. In the text's parallel in

¹⁷ Joshel 2010, 54, notes that in earlier Roman society such a loan would be 'secured on the person of the debtor (or his son) for the very purpose of controlling the labor of the debtor'.

¹⁸ T. 'Arak. 5:8

¹⁹ Ibid.

²⁰ Sifra Behar 7, 80a.

²¹ Mek. Mishpatim 3.

the Mekhilta, sons are explicitly excluded from sale.²² With daughters, the moral issue of sexual exploitation had to be considered. In Mishnah Ketubot 3:8 and in the Mekhilta, the father's right to sell his daughter is limited to the time before puberty, perhaps to avoid associations of a direct sale into prostitution. The Mekhilta also prohibits an adult woman from selling herself.²³ Adult women were under the authority of either their fathers or husbands, so decisions about their sale may have been considered these male householders' prerogatives.

In Roman law the *paterfamilias* determined a child's life or death and could therefore also decide to abandon, kill, or sell an infant. Evidence of such occurrences appear in Roman legal sources. For example, a six-year-old girl known as Passia was bought by a certain Maximus in Thrace in the first half of the second century.²⁴ The girl's fate depended on her master's attitudes towards slaves and treatment of her: she might be exploited and abused, or be 'lucky', work hard, and be maintained with food and clothing.²⁵ Whether she was sold or abandoned by her father remains unknown. On the background of Roman fathers' absolute authority over their children, the rabbinic stipulations that limit the sale of children to girls before puberty may be seen as morally based leniencies. Rabbis may have allowed fathers to sell their young daughters for similar reasons as permitting self-sale: to enable (the rest of) the impoverished family to survive.

THE 'CONVERSION' OF SLAVES

Although rabbis clearly distinguished between slaves and freeborn Jews, they nevertheless feared that slaves owned by Jews could be exposed to idolatry if sold to non-Jews and/or outside of the rabbinically defined Land of Israel. According to Mishnah Gittin 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.' The text has a parallel in the third-century Midrash Sifre Deuteronomy (259). By contrast, no limitations exist with regard to bringing slaves in from outside; that is, purchasing slaves at gentile fairs or in adjacent regions. According to the Tosefta and the Palestinian Talmud, 'they go to a [gentile] fair and purchase male and female slaves

²² Mek. Mishpatim 3.

²³ Mek. Mishpatim 3 and M. Ketub. 3:8.

²⁴ On this example see Sigismund-Nielsen 2013, 286–7.

²⁵ See *ibid.* 287.

there'.²⁶ What could have been the reason behind this distinction?²⁷ What changes were slaves expected to undergo once they became the slaves of Jewish owners?

The texts talk about slaves in general rather than distinguishing between formerly Jewish and gentile slaves. Slaves, whether from Jewish or non-Jewish backgrounds, were expected to be involved in Jewish ritual practices associated with food preparation and ritual purity. They would have to prepare food in accordance with the rules of *kashrut*, help remove leaven from houses before the Passover holiday, participate in the Passover Seder, and adhere to family purity rules (e.g., immersion after menstruation and childbirth; not touching things while in an impure state, at least if they worked in the homes of rabbis and other religiously committed Jews). Although slaves were not considered proper Jews, even if they were born Jewish – being a slave and a Jew was considered incompatible by rabbis, since Jews could have only God as their master – they had to be sufficiently prepared to work in Jewish households. This preparation would have involved practical instructions as well as the immersion and circumcision of non-Jewish slaves.

According to the *Tosefta*, male uncircumcised slaves purchased from non-Jews must be both circumcised and immersed; sons of slave women, even if they are circumcised, must be immersed.²⁸ Otherwise, 'things which they press against [i.e., touch or sit on] are [considered] unclean'.²⁹ Similarly, the wine they prepare and serve should not be consumed by Jews, unless the slaves who touched it are minors who would not have conscious memories of idolatry. Idolatry is explicitly mentioned in the explanation: 'And who is [considered] an adult? Anyone who remembers and recognizes idolatry and its service.'³⁰ Even the mere memory of idolatry and its practice, that is, the preparation of libation wine, is said to have rendered a slave unfit for service in a Jewish household, unless he undergoes rituals that are identical to those that rabbis impose on non-Jews who want to convert to Judaism.³¹ Since

²⁶ y. 'Abod. Zar. 1:1, 39b par. T. 'Abod. Zar. 1:8. The negation in the Zuckerman edition of the *Tosefta* seems to be an error.

²⁷ See also the 4QDa. 12.10–11: a member of the Qumran sect may not 'sell his male slave or female slave to gentiles, because they [the slaves] have come with him into the covenant of Abraham', that is, they have joined the householder's religion; trans. Cohen 1999, 169.

²⁸ T. 'Abod. Zar. 3:11.

²⁹ Ibid.

³⁰ Ibid.

³¹ On rabbinic conversion rules, see Cohen 1999, 198–238; Segal 2014, 591–3.

wine preparation could also include agricultural work, the rule is not limited to household slaves but applies to all originally non-Jewish slaves purchased and employed by a Jewish owner.

That Jewish slave owners circumcised their slaves in early Byzantine times is also suggested by *Codex Theodosianus*, which states explicitly that ‘slaves must not be circumcised by Jews [*non debere servos a Judaeis circumcidi*]’.³² A statute by the emperor Constantine issued in 336 CE states:

It is Our will that if any Jew should purchase a Christian slave or a slave of any other sect whatever and should not greatly fear to circumcise such slave, the person thus circumcised shall be rendered master of his freedom by the measure of this statute and shall obtain possession of the privileges thereof. It shall not be permissible for a Jew who has circumcised a slave of the aforesaid class to retain such a slave in the service of slavery.³³

This text almost sounds like the exact opposite of the rabbinic rule that Jews who sell their (circumcised and immersed) slaves to non-Jews would lose their authority over them.³⁴ While rabbis feared that their ‘converted’ slaves could become exposed to idolatry, a category in which they also included Christianity, Christian leaders feared that Jews might convert (potentially) Christian slaves they owned. Both sides created these boundaries to protect their constituencies. At the same time, the rules also link the power of masters over slaves to the power and assumed superiority of one religion over another. The late Roman imperial statute was meant to limit the power of Jews over (potential) Christians now that Christianity had become linked to empire and was eager to express its believed superiority.³⁵ Whether and to what extent Constantine’s statute was enforced in a distant Near-Eastern province remains unknown. Not being able to circumcise their male gentile-born slaves would have prevented Jews from employing such slaves altogether.

A later statute by the emperors Gratian, Valentinian II, and Theodosius I, dated to 384 CE, goes one step further and prohibits the ownership of (formerly) Christian slaves by Jews altogether:

No Jew whatsoever shall purchase a Christian slave or contaminate an ex-Christian with Jewish religious rites. But if a public investigation should disclose that this has been done, the slave shall be forcibly taken away, and such master

³² *Const. Sirm.* 4; par. *C.Th.* 19.9.1.

³³ *Ibid.*; trans. Pharr 2001, 479.

³⁴ See *m. Git.* 4:6.

³⁵ See also Linder 2006, 165.

shall undergo a punishment suitable and appropriate to the crime. It is further added that if there should be found among the Jews any slaves who are either still Christians or ex-Christian Jews, they shall be redeemed from this unworthy servitude by the Christians upon payment of a suitable price.³⁶

The very necessity of this and later decrees suggests that Jews did in fact continue to own and circumcise Christian slaves in the fourth to sixth centuries CE.³⁷ Interestingly, the late Roman authorities assumed that circumcision and immersion turned the slaves into Jews. The term ‘ex-Christian Jew’ (*ex christianis iudaei*) in distinction from ‘Christian slave’ (*christiani servi*) distinguishes between slaves who have already been circumcised and immersed and others who have not yet undergone these rituals. Both are supposed to be taken away from their Jewish owners, who are threatened with punishment but also promised to be reimbursed ‘by the Christians’ who would then continue to use them as slaves in their own households. Since these measures are to follow ‘a public investigation’, which would have been difficult to carry out in Byzantine Palestine, especially as far as largely Jewish cities and villages in the Galilee are concerned, the efficacy of the decree is questionable. It is possible, though, that slaves who were treated harshly by their Jewish owners approached Christians and told them that they were Christian believers or wanted to convert to Christianity. In such a case they might not have gained their freedom but might have been taken away from their Jewish owners, if Christians were willing to redeem them. A later repetition of the decree in 415 CE³⁸ rules that ‘slaves of the Christian faith’ in Jewish ownership ‘shall be delivered to the Church’.³⁹ Individual Christians may have tried to get hold of such slaves for their own use and advantage rather than liberating them for good.

From the rabbinic point of view, slaves who were circumcised and immersed did not automatically become Jews. In fact, even if they were male, they could not be considered Israelites as long as they were enslaved, since being a slave and a Jew was seen as a contradiction in terms.⁴⁰ The conversion rituals must rather be understood symbolically, rendering the slaves fit for service in Jewish households. Rather than becoming Jews,

³⁶ *C.Th.* 3.1.5; trans. Pharr 2001, 64.

³⁷ The prohibitions reappeared in the fifth and sixth centuries; see Linder 2006, 165. Linder further writes: ‘Three centuries of continuous efforts to stamp out the enslavement of Christians to Jewish masters proved ultimately unsuccessful’ (at 167).

³⁸ *C.Th.* 16.8.22.

³⁹ *Ibid.* 470.

⁴⁰ See Hezser 2005, 45 with reference to T. B. Qam. 7:5, par. y. Qidd. 1:2, 59d.

they obtained the status of *eved Yisrael*, ‘slave of Israel’ or ‘Israelite slave’, which distinguished them from both gentiles and Jews. As members of a Jewish household that performed Jewish religious rituals, the circumcised and immersed slaves were considered to have been brought ‘under the wings of the Shekhinah [that is, the presence of God on earth]’. According to Sifre Numbers, householders who brought slaves ‘under the wings of the Shekhinah’ would ‘increase the glory of God’.⁴¹ In Christian households non-Christian slaves were commonly baptised. Acts 16:14–15 refers to the forced Christianisation in the form of baptism of all slaves at the time when their owner, a certain Lydia, became Christian. Like the circumcised and immersed slaves of Jewish owners, the baptised slaves of Christian owners occupied an inferior in-between status that differentiated them from both pagan slaves and free(born) Christians. While formerly pagan slaves could become Christian believers, equality existed ‘in Christ’ only, that is, it was ideal and spiritual rather than real.⁴²

UPHOLDING JEWISH FAMILY VALUES

While rabbis took the Jewish ownership of slave women for granted, they imposed certain rules that limited the consequences of men’s sexual intercourse with slave women for the composition and property of their nuclear families. Whereas biblical texts mention that Israelite men had no reservations against having children with slave women, who would then be recognised as the legitimate children of their Israelite father (see, for example, Abraham and Hagar in Gen. 16; Ishmael is considered Abraham’s son; Gen. 21:12–13), in Roman-Byzantine times rabbis were concerned about guarding the boundaries of the nuclear family and therefore limited the creation of legitimate children and heirs to the household-er’s free(born) wife. A possible reason for this development may have been the decimation of land holdings after the two revolts. With the reduction of family-owned plots, the earlier ideal of large families gave way to a limit on the number of heirs who would have to share their father’s property

⁴¹ Sifre Num. 80.

⁴² Glancy 2018, 476, writes in connection with Gal. 3:28 and 1 Cor. 12:13: ‘It may be useful to differentiate between the claim that for those in Christ there are no distinctions between slave and free and the claim that slavery presents no obstacles to those who want to join the Christian body. In fact, Paul never clearly makes the latter claim’. See also Glancy 2002, 49–50.

among themselves. Another reason was the rabbinic category of ‘illegitimate unions’ that had an analogy in Roman law.

The first-century Jewish historian Flavius Josephus adds slave women and female war captives to the ‘forbidden relationships’ with whom Jewish priests cannot enter legitimate unions.⁴³ Rabbis extended the prohibition on marrying slave women to all Jews and declared the children of slave women slaves, even if their father was a freeborn Jew. According to Mishnah Qiddushin 3:14, the offspring obtains the status of the (freeborn) father in legitimate marriages only. The offspring of sexual intercourse with slave women obtain the status of their mother, that is, they are considered slaves like her.⁴⁴ These rules would have allowed men to use their female slaves for sexual gratification without having to maintain the children these women might give birth to. The offspring could be kept in the master’s household and be used as slaves or sold off at the slave markets. A similar regulation existed in Roman society, where only the children produced in *iustae nuptiae*, that is, marriages between Roman citizens, were considered legitimate, whereas children that emerged from intercourse between Roman citizens and slave women were considered slaves.⁴⁵ In Judaism this matrilineal principle was a rabbinic innovation. It also determined who was considered a Jew, namely, the child of a freeborn Jewish mother.⁴⁶ The children of slaves, on the other hand, including those of female slaves who were born Jewish or had undergone immersion, could never be considered Jewish as long as they remained enslaved.

The Mishnah’s innovative ruling⁴⁷ indicates the much greater distinction between slaves and free(born) individuals in the Jewish society of Roman-Byzantine times in comparison with earlier periods, a contrast that was prepared in Hellenistic and early Roman times. For rabbis, the Jewish family could employ slaves as members of their wider households, but these slaves and their offspring could not become the householder’s children and heirs. The status of a legitimate heir was reserved for children born to the householder’s free and married Jewish wife only. Yet there is also evidence that the edges of this system were blurry. Although Mishnah Yebamot 2:8 rules that a householder may not marry a slave woman he

⁴³ Joseph. *A.J.* 3.12.2(276).

⁴⁴ M. Qidd. 3:12.

⁴⁵ Gai. *Inst.* 1.81.

⁴⁶ On the matrilineal principle, see Cohen 2001, 263–307.

⁴⁷ M. Qidd. 3:12.

slept with and subsequently manumitted, rabbis concede that if he did marry her, ‘they do not take [her] away from him’, that is, she can retrospectively be considered his wife. In the Tosefta, the same principle is applied to Jewish women and male slaves.⁴⁸

Besides the socio-economic reasons already mentioned, which rabbis probably shared with Roman jurists, moral concerns also determined their negative views of (unions with) slave women, irrespective of whether these women came from Jewish or gentile backgrounds and whether they were former Roman war captives or bought from fellow Jews. They were always seen as sexually promiscuous, irrespective of whether they had engaged in sexual unions voluntarily or were violated by their owners and/or other men. According to Tosefta Horayot 2:11, no Jewish man is eager to marry a freed slave woman because she ‘is [assumed to be in the status of] one who had been freely available’, that is, she is considered a prostitute, in contrast to a freeborn proselyte, who is expected to have ‘guarded herself’.⁴⁹

Some rabbis seem to have wished to end sexual intercourse between Jewish males and slave women altogether and tried to instil feelings of guilt in men who engaged in such relationships. The late antique Midrash Leviticus Rabbah comments on Proverbs 14:9: ‘Fools mock at making amends for sin’, with a statement attributed to R. Yudan in the name of R. Levi: ‘This [verse] refers to men who treat [sexual intercourse] with female slaves as permitted in this world. The Holy One Blessed Be He will hang them by the hair of the crown of their heads in the future [world] to come’ (Lev. R. 9:5). Afterwards, Psalm 68:22 is quoted: ‘Surely God will smite through the head of his enemies; the hairy scalp of him that goes about in his guiltiness’, followed by: ‘All people shall say: Let this man perish in his guilt! Let this man perish in his guilt!’ Such strong condemnations of sexual intercourse with female slaves are absent from the earlier tannaitic documents. Although the Mishnah already threatens with guilt offerings,⁵⁰ such punishments could not actually be imposed after the destruction of the Temple. While a fine is imposed on men who had sexual relations with freed slave women who were manumitted as toddlers, no fine is mentioned for the rape of slave women manumitted after the age of three years and one day.⁵¹ Could the late antique rabbinic exhortations to

⁴⁸ t. Yebam. 4:6.

⁴⁹ Ibid. But see Sifre Emor 1:7 (49b–50a), where manumitted slave women and female proselytes are equated in this regard – both are considered harlots.

⁵⁰ m. Ketub. 2:2–4.

⁵¹ Ibid. 3:1–2.

refrain from sexual relations with slave women be meant to prevent stronger boundaries between Jewish men and female slaves of a pagan or Christian background? Or were rabbis more concerned about sexual morality, that is, men's control over their bodies and desires, than potential enticement to idolatry? In any case, the sexual use of slaves is now seen as detrimental to the well-being of the late antique Jewish family.

Perhaps rabbis were familiar with similar Christian views. Glancy notes that in the late third century, Lactantius urged Christian men to have sexual relations with their wives only and not with slaves.⁵² She dismisses the relevance of earlier Stoic recommendations that appealed to men's self-control of their urges. Rather, Christian theologians of the third and fourth centuries saw the Christian family as a bulwark of Christian morality in contrast to pagans: 'Ambrose urged men to avoid sexual relations with slaves in order to avoid giving their wives grounds for divorce. Jerome contrasted Christian with pagan morals'.⁵³ In such a climate, which stressed family values, rabbis may have been similarly inclined to implore their fellow Jewish men to safeguard the sexual 'purity' of the Jewish family. Like Christian leaders, they distinguished Jewish values from those of pagans, especially at a time when paganism was increasingly condemned within society. It seems that by outlawing sexual intercourse with slave women, late antique rabbis entered a moral competition with Christian leaders for the upholding of (stoically inspired?) family values.

LIMITS TO PHYSICAL VIOLENCE AGAINST SLAVES

Since slaves were the property of their owners and had no legal rights, masters could treat them however they wanted. Physical violence towards slaves would have been considered a proper means of discipline, if it was executed by the master himself or an appointed supervisor. In Roman law slave owners even had the right to kill their slaves, and this right was allegedly based on the 'law of nations'.⁵⁴ In the early fourth century, Constantine assured owners that they would not be held legally responsible if their slaves died as a consequence of physical discipline or restraint.⁵⁵ In fact, violent physical punishment was justified as a proper

⁵² Glancy 2002, 58.

⁵³ Ibid.

⁵⁴ *Inst. Iust.* 1.8.1.

⁵⁵ *C.Th.* 9.12.1.

reaction to ‘very wicked deeds’, ‘to obtain better behaviour from their slaves’.⁵⁶ In this rescript, Constantine explicitly states that no investigations should be made: ‘It is our pleasure that masters are not held guilty of murder by reason of the death of a slave, as often as they exercise domestic power by simple punishment.’⁵⁷

While biblical law permits masters to physically discipline their slaves, it also protects slaves against being killed in this process: ‘When a man strikes his male or female slave with a rod, and he dies under his hand, he must be avenged. But if he survives a day or two, he is not to be avenged, since he is his property.’⁵⁸ A master who kills his slave, whether intentionally or unintentionally, must be held responsible for his death. If the slave is badly damaged but does not die immediately, the master remains guiltless. The boundary of legitimate behaviour that is set here is the slave’s death. According to Israelite and Jewish belief, only God may take away human life. If a master kills his slave, he illegitimately substitutes for God. The most violent punishment of slaves is legitimised with reference to the master’s ownership of the slave, though.

In rabbinic discussions, ‘Hebrew’ slaves are exempted from the permission to chastise them physically: ‘He who wounded a Hebrew slave is liable on all counts’.⁵⁹ Violence against one’s own ‘Canaanite’ slaves is permitted, though.⁶⁰ The distinction between ‘Hebrew’ and ‘Canaanite’ slaves is biblical but was hardly maintained in Roman times. As we have already seen above, originally non-Jewish slaves were made to undergo conversion rituals (circumcision and immersion) to work in Jewish households. Jewish-born slaves were not considered proper Jews during the time of their enslavement. Thus, the distinction between formerly Jewish and formerly non-Jewish slaves was blurred. While they were enslaved, their status as *eved Yisrael* was all that mattered. Does this mean that the Mishnah’s injunction applies to all Jewish-owned slaves then, including those who had undergone the required ‘conversion’ rituals? Or is it specially addressed to the owners of Jewish-born debt slaves?⁶¹

In the Tosefta, the owner’s liability is extended beyond the biblical rule⁶² in two ways. Firstly, no time limit is set to the slave’s survival after

⁵⁶ Ibid. 9.12.2.

⁵⁷ Ibid.

⁵⁸ Ex. 21:20–1.

⁵⁹ m. B. Qam. 8:3.

⁶⁰ Ibid. 8:5.

⁶¹ See above and Lev. 25:43.

⁶² In Ex. 21:20–1.

the inflicted injury. Secondly, the owner's responsibility covers all injury leading to the slave's death within the spatial limits of his property: '[he is not punished] unless hitting him and his death [occurred] in his domain'.⁶³ If he hit his slave and then sold him to someone else, however, and the slave died under the new owner's authority, the former owner is exempt, since the slave did not 'die under his hand'.⁶⁴

Recommendations to treat slaves mildly appear repeatedly in late antique rabbinic texts. Some of these texts specifically mention impoverished Jews who had to sell themselves into slavery. Such a slave 'is not to go behind you carrying you in a sedan chair; and he is not to go before you in the bathhouse carrying your utensils'; he should 'be with you in food, with you in drink, and with you in clean clothes, so that you are not to eat a fine piece of bread and he eats bread of coarse grain, you drink old wine and he drinks new wine, you sleep on down and he sleeps on straw'.⁶⁵ The lifestyle projected here is that of a wealthy individual able to afford expensive food and wine, wearing fine clothes, and presenting himself in the public sphere. He is urged to treat his debt slave as he would treat his equal. The text suggests that debt slaves should be seen as impoverished fellow Jews rather than servants. Obviously, no historical conclusions about the actual treatment of debt slaves can be drawn from this proposition. Some of the tasks from which debt slaves are supposed to be exempt here – for example, carrying their master's utensils to the bathhouse – were also expected of disciples of sages who 'served' their masters (*shimush chakhamim*).

Talmudic texts present rabbis as examples of mild and even indulgent treatment of their slaves, without specifying whether the slaves were debt slaves or permanent slaves, formerly Jewish or non-Jewish: 'Now did not R. Yochanan, from whatever he would eat, give to his slave and recite the following verse in this connection: "Did not He who made me in the womb make him"? [Job 31:15]'.⁶⁶ What is particularly interesting here is the emphasis on the slave's humanity, his being created by God like any other human being. This notion went against common ancient associations of slaves with animals and their treatment as some kind of non-human property (chattel).⁶⁷ Another example of a rabbi who is said to

⁶³ t B. Qam. 9:22.

⁶⁴ Ex. 21:20.

⁶⁵ Sifra Behar 7:2, 80a.

⁶⁶ y. Ketub. 5:5, 30a.

⁶⁷ Slaves are equated to animals by Aristotle; see *Pol.* 1254–6 and Isaac 2004, 212.

have behaved towards his slave as he would towards a free person is the story about R. Gamliel's mourning and accepting condolences on the occasion of his slave Tabi's death.⁶⁸ Unlike R. Yochanan's anonymous and generic slave, Tabi is said to have been 'worthy', though.⁶⁹ He is presented as an exceptional slave and 'disciple of a sage'.⁷⁰ The examples of R. Gamliel and R. Yochanan are presented as extraordinary behaviours. Yet they also indicate that late antique rabbis valued good master-slave relationships and did not share the common ancient objectification of slaves.

Some Stoic philosophers also propagated the mild treatment of slaves. Seneca, for example, stressed that slaves were as human as their masters and should be treated with gentleness. At the very beginning of *Epistula* 47 to Lucilius, he praises his addressee for living 'on familiar terms with your slaves', befitting 'a person of your good sense and education'. He counters those who see slaves as different, stressing that 'they are human beings' and 'housemates' (*contubernales*), similar to 'lowborn friends'.⁷¹ Slaves could have free minds, whereas free persons could be enslaved by their desires.⁷² Later patristic writers sometimes took Paul's reference to Onesimus as Philemon's 'beloved brother'⁷³ as an example of how slave owners should relate to their slaves. Fitzgerald points to the late fourth- to early fifth-century bishop Theodore of Mopsuestia, who, in his commentary on Paul's letter, stresses the 'kindness' and 'affection' with which Philemon is meant to treat his slave.⁷⁴ Although some Stoics, church fathers, and rabbis shared notions about the humanity of slaves that should result in mild treatment, their anthropological and theological views were different. Rabbis believed in the unity of body and soul, which required both to be valued equally. By contrast, the Christian dismissal of the body and emphasis on the spirit could lead to a disregard of slaves' bodily misery.⁷⁵

⁶⁸ m. Ber. 2:7.

⁶⁹ Ibid.

⁷⁰ m. Sukk. 2:1.

⁷¹ Sen. *Ep.* 47.1.

⁷² Ibid. 47.17; trans. Graver and Long 2015, 134 and 137.

⁷³ Phlm. 1:1.

⁷⁴ Fitzgerald 2010, 359, with reference to Thdr. Mops. *Comm. Philm.* 2.278.15–16 and 2.283.16.

⁷⁵ Glancy 2002, 10, points out that slaves were commonly seen as bodies that were vulnerable to abuse. Even slaves who became Christian believers could be treated harshly as far as their bodies were concerned.

THE REDEMPTION OF JEWISH SLAVES

As a consequence of Roman imperialism, tens of thousands of Jews were captured and enslaved by Roman soldiers between the first century BCE and second century CE.⁷⁶ In the third century, when the local revolts were quelled, the empire-wide *pax Romana* seems to have created a rather peaceful situation for Jews in Roman Palestine. At the same time, the Roman military and administrative presence may have provoked the occasional uproar among the Jewish population, and the Roman punishment may well have been the occasional capture and enslavement of individuals. Such measures would have served as manifestations of Roman power and prevented uprisings. Therefore, late antique rabbis felt inclined to continue discussions about the redemption of originally Jewish slaves and war captives.

Rabbis were particularly concerned about these captured and enslaved individuals' forced loss of their Jewishness, through having to serve an earthly master, being exposed to idolatry or converted to Christianity, and being sexually exploited and becoming impure. The Tosefta states: 'Just as an Israelite is obliged to redeem a [formerly] free [Jew], he is obliged to redeem their slaves', that is, formerly Jewish-owned slaves that now serve a non-Jewish master.⁷⁷ The expansion of the rule to include not only slaves who were born Jewish but also those whom their former Jewish owners had 'converted' to Judaism stands in direct contrast to the statute of Constantine and later Roman emperors mentioned above, according to which Christians should seize such slaves from their Jewish owners. From the rabbinic point of view, the redemption of Jewish and Jewish-owned slaves from non-Jewish owners was considered a liberation from an idolatrous environment and a restitution into the monotheistic Jewish communal context ('They take from non-Jews fields, houses, vineyards, cattle, and male and female slaves, because this is like rescue from their hands'⁷⁸). Since slaves were commonly seen as 'blank slates' whom their owners would inscribe, those who had experienced the impact of Judaism were meant to remain in that social, cultural, and religious environment, even if they did not have the status of free adult Israelites as long as they were slaves.

⁷⁶ Hezser 2005, 229–30, with references.

⁷⁷ T. Git. 4:2.

⁷⁸ T. Mo'ed Qat. 1:12.

A narrative transmitted in the Tosefta presents the example of a handsome young boy, a native of Jerusalem, whom R. Yehoshua discovered at a slave market in Rome.⁷⁹ There were rumours that the boy, if he remained enslaved, would ‘be put to disgrace’, that is, sexually exploited. Allegedly, the boy’s ethnically Jewish, Jerusalemite origin was not a sufficient motivation for the rabbi to redeem him. He rather examined his Torah knowledge by asking him a biblical question. When the boy is able to answer and proves himself worthy of redemption, ‘he redeemed him with a lot of money and sent him [back] to the Land of Israel’.⁸⁰ In the Babylonian Talmud, the opposite case is told of an enslaved Jew who was not deemed sufficiently observant to be worthy of redemption.⁸¹ A man had sold himself to Lydian masters and asked R. Ammi to redeem him. R. Ammi rejected this request not only because the man had voluntarily submitted himself to slavery rather than being forcefully enslaved by non-Jews; there were also rumours that he had eaten meat that was not ritually clean, that is, the rabbi considered him not sufficiently Jewish in a religious sense of the word. In both of these cases an ethnic Jewish background is not considered sufficient reason for religious leaders to redeem a slave for a probably high ransom money. The type of enslavement (forceful seizure by non-Jews) and Jewish religious knowledge and observance of the individual are considered crucial for determining his worthiness of being redeemed and reintegrated into a Jewish context.

Rabbis had a reason for their lack of enthusiasm to redeem even forcefully captured Jews from their non-Jewish owners. According to the Mishnah, ‘they do not redeem captives at a price that is higher than their purchase price, because of the good order of the world [*tikkun ha-olam*]’.⁸² Those who formulated this rule seem to have feared that the payment of an exorbitantly high ransom fee might lead non-Jews to capture and enslave even more Jews to make a profit. The situation of the entire Jewish community rather than the individual enslaved person seems to have informed this argument. To maintain good relations between Jews and non-Jews at the turn of the third century CE, that is, to prevent Romans from capturing and enslaving even more Jews, limits had to be set to the redemption of those who were already in non-Jewish ownership. Their benefits had to be weighed against those of the rest of the

⁷⁹ T. Hor. 2:5–6.

⁸⁰ Ibid.

⁸¹ b. Git. 46b–47a.

⁸² M. Git. 4:6.

Jewish community. Extraordinarily high ransom fees could probably be paid through collective efforts only, that is, money that was meant for internal charitable purposes would have to be given to non-Jews.⁸³ Obviously, relatives had a high interest in liberating their captured family members from non-Jewish ownership. The Babylonian Talmud relates a story about a certain Levi b. Darga, who allegedly paid 13,000 golden denars to redeem his daughter.⁸⁴ If a wealthy individual could afford such ransom fees, the communal coffers would not be affected, but he might nevertheless set an example that might encourage unscrupulous kidnapers. Therefore, rabbis would not recommend such actions either.⁸⁵

Imperial statutes transmitted in the *Codex Theodosianus* urged Christians to redeem their coreligionists from Jewish slave owners.⁸⁶ The redemption of Christian slaves is presented as a moral imperative in patristic writings.⁸⁷ Harrill notes that many Christian sources 'discuss . . . public displays of generosity from ecclesiastical common chests'.⁸⁸ Yet not all church fathers were in favour of such expenditure. In the early second century, Ignatius of Antioch writes in his letter to Polycarp:

Despise not slaves, whether men or women. Yet let not these again be puffed up but let them serve the more faithfully to the glory of God, that they may obtain a better freedom from God. Let them not desire to be set free at the public cost, lest they be found slaves of lust.⁸⁹

Like the rabbis of the narratives mentioned above, Ignatius reckons with the possibility that the slaves may not be worthy of redemption with communal money. They may not actually adhere to Christian moral values even if nominally Christian. He recommends the maintenance of their status as slaves. As slaves of faithful (and probably wealthy) Christian owners, they are said to be better able to serve God than if they were freed and enabled to live according to their own desires. The 'better freedom' promised here would be achieved through bodily servitude. It is reduced to a merely spiritual and moral state. In this way, 'freedom in Christ' is used to justify the continuation of bodily slavery.⁹⁰

⁸³ See b. Git. 45a.

⁸⁴ Ibid.

⁸⁵ See Abaye's comment in b. Git. 45a.

⁸⁶ *C.Th.* 1.1.5.

⁸⁷ Grieser 2010 provides a good overview.

⁸⁸ Harrill 1995, 178.

⁸⁹ Ign. *Pol.* 4.1–3; trans. Lightfoot and Harmer 2004 (originally 1891).

⁹⁰ See also the many references to slavery of desires and freedom in Christ in Eusebius of Caesarea's *Praeparatio evangelica*. On the idea of spiritual redemption in ancient

Due to the belief of the unity between body and soul, rabbis could not recur to such distinctions between bodily enslavement and spiritual freedom. Therefore slaves, whether owned by Jewish or non-Jewish owners, could not obtain the status of an adult (male) Israelite with its requirement of full Torah observance. Accordingly, the redemption of slaves may have been considered justified in exceptional cases of religious piety and observance only.⁹¹ The seemingly more intense Christian insistence on redemption, on the other hand, was not meant to give slaves authority over their own bodies and destinies. It was rather meant to bring their ‘souls’ under the custody of wealthy Christian owners or the institution of the Church.

CONCLUSIONS

The discussion has shown that Jewish slave practices in late antiquity can be understood properly only if seen within the Roman and Byzantine Christian context. The question ‘What was Jewish about Jewish slavery in late antiquity?’ can therefore be answered in a relative way only. Aware of the dire poverty in which many of their compatriots found themselves, rabbis permitted the self-sale and sale of children under certain circumstances. Debt slavery and self-sale were also practised elsewhere in the Near East and seem to have occurred among the destitute Roman population, even if the legal and political authorities may have outlawed such practices.⁹² Like Jewish owners, Christian owners would customarily ‘convert’ their slaves to their own religion and try to prevent the transfer of such slaves into non-Jewish or non-Christian ownership. In late Roman times, Jewish and Christian religious leaders seem to have ‘pulled strings’ from opposite sides, trying to preserve the religious identity of the respective households. Biblical as well as Stoic ideas would have inspired both rabbis and church fathers to admonish slave owners to avoid violence and to regard their slaves as human beings. Masters were urged to keep their sexual urges in check and to uphold Jewish family values. Such recommendations were meant to demarcate the boundaries of the nuclear Jewish family in accordance with its religious identity, succession, and heritage. While the redemption of slaves that shared one’s own ethnic and religious background was held up as a moral ideal, religious leaders feared the

Christian texts see Glancy 2002, 99. See also the chapters of De Wet and Evans Grubbs in this volume.

⁹¹ See also Ramelli’s chapter in this volume.

⁹² Glancy 2002, 80–5, on self-sale; Chirichigno 1993 on debt slavery in the ancient Near East.

impact of a large-scale redemption on communally owned funds and on social cohesion. Therefore, rabbis tried to restrict redemption to religiously knowledgeable and observant Jewish-born slaves seized by Romans, and Christian theologians stressed the greater importance of spiritual redemption over bodily freedom.

PROOF