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Manumission and Transformation in Jewish and Roman Law

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Manumission and Transformation in Jewish and Roman Law

Abstract

In Roman and rabbinic legal and literary sources from the first centuries of the Common Era, the institution of slavery exhibits a double nature. For both Jews and Romans, slavery is a dreaded state of denigrated non-personhood, and yet in both legal worlds, slavery can be a site of acculturation, even conversion, to the dominant status and ideals of rabbinic and Roman civilization. Initial research into key symbols and ideas on this topic reveal some suggestive similarities—structural and conceptual homologies between Roman and rabbinic constructions of slavery and the modes and cultural valuations of the manumission of slaves. The slave marks the outer boundary of the person and yet, at the same time, provides an exemplum that facilitates a transformation of the slave-self and an opportunity for movement from periphery to center, from thing to citizen, from Gentile to Jew. I will compare a few aspects of Roman and rabbinic legal thinking on slaves in the first centuries C.E. as a way to think more broadly about rabbinic legal/exegetical self-fashioning in the Roman Near East. In this essay I want to map the *narratives of integration* that are encoded in Roman and rabbinic slave law. The common features of the legal itinerary from slave to free are several. It is important to note from the beginning that the notion of slavery as *paideia* that leads to enfranchisement is largely a legal and cultural fiction. For most freedmen in both cultures, past slavery seems to have stigmatized them their entire lives. However, the fact that a part of each culture imagines that its slaves could *become them* provokes many questions. What does this ideal transformation tell us about the fact of Jewishness or Romanness; and, how, if at all, is the figural "enslavement" of the Jews under Roman power reflected in the Jewish slave laws (or more pointedly, in the rabbinic interpretation and recasting of biblical slave laws)?

Disciplines

European History | History of Religion | Islamic World and Near East History | Jewish Studies | Legal | Religion

Manumission and Transformation in Jewish and Roman Law

NATALIE B. DOHRMANN

Introduction

In Roman and rabbinic legal and literary sources from the first centuries of the Common Era, the institution of slavery exhibits a double nature. For both Jews and Romans, slavery is a dreaded state of denigrated non-personhood, and yet in both legal worlds, slavery can be a site of acculturation, even conversion, to the dominant status and ideals of rabbinic and Roman civilization.¹ Initial research into key symbols and ideas on this topic reveal some suggestive similarities—structural and conceptual homologies between Roman and rabbinic constructions of slavery and the modes and cultural valuations of the manumission of slaves. The slave marks the outer boundary of the person and yet, at the same time, provides an exemplum that facilitates a transformation of the slave-self and an opportunity for movement from periphery to center, from thing to citizen, from Gentile to Jew. I will compare a few aspects of Roman and rabbinic legal thinking on slaves in the first centuries C.E. as a way to think more broadly about rabbinic legal/exegetical self-fashioning in the Roman Near East. In this essay I want to map the *narratives of integration* that are encoded in Roman and rabbinic slave law. The common features of the legal itinerary from slave to free are several. It is important to note from the beginning that the notion of slavery as *paideia* that leads to enfranchisement is largely a legal and cultural fiction. For most freedmen in both cultures, past slavery seems to have stigmatized them their entire lives.² However, the fact that a part of each culture imagines that its slaves could *become them* provokes many questions. What does this ideal transformation tell us about the fact of Jewishness or Romanness; and, how, if at all, is the figural “enslavement” of the Jews under Roman power reflected in the Jewish slave laws (or more pointedly, in the rabbinic interpretation and recasting of biblical slave laws)?

The legal strain preserved in the Roman and rabbinic legal sources that presumes or supports manumission as gateway to belonging reveals surprisingly similar ideas of the person and the nature of freedom and belonging in the rabbinic/Roman legal imagination. For both legal cultures slavery effaces past history and social connections. Both the rabbinic and Roman legal material uniquely imagine slavery, after it has obliterated family and history, as a site of acculturation and conversion that has the potential to culminate in manumission into membership in the master's own community—be it as Jew or Roman. And finally, this membership is within a legal community, in a world portrayed as an idealized *nomos*.

My evidence in this particular essay is limited to Roman and rabbinic *literary* texts, namely, legal texts written in the first three centuries of the Common Era.³ The Roman legal source that presents the closest parallel to the tannaitic texts is the *Institutes* of Gaius (and its later recapitulation by Justinian).⁴ This epitome and codification of Roman law was intended to be a textbook for law students. It was the first attempt at such a systematic ordering of Roman law, and was completed during the reign of Antoninus Pius in the late second century, ca. 161 C.E.⁵ The Roman and tannaitic sources have a great deal in common.⁶ Neither the *Institutes* nor the rabbinic material functioned as working legal texts in court situations (at least in the forms in which we inherit them).⁷ Neither is comprehensive. And while it is famously difficult to extrapolate from the texts to actual legal praxis, each preserves many of the culture's social and legal ideals, and each quickly accrues iconic status within its respective social and legal context.⁸ The rabbis, as is becoming increasingly evident, were a diffuse group with limited authority within Jewish society in the tannaitic era. Since their legal decrees had at best minor social impact, they were freer to inhabit a more idealized legal landscape.⁹ Throughout my work, I aim to set legal texts in social-historical conversation but, more immediately, to show a case in which legal (interpretation and) writing is productive rabbinic discourse that functions beyond its manifest legal content.

Law codes are notoriously bad sources for descriptive social history.¹⁰ By limiting myself primarily to legal texts, I limit myself to a certain form of cultural presentation, one that organizes data structurally, systematically, and ideologically—and not according to the messy vicissitudes of life. Still, the legal imagination tells us something of a culture's self-perception that, if not actual, is also not peripheral to any thick description of national identity and aspiration. When reading the Jewish slave laws, I am attempting to hear the cultural ideals obliquely articulated by legal detail. I argue that each of the ideological strands in the legal cor-

pus must be read as a product of legal traditions that are simultaneously arising in the context of in which the rabbis lived and were seen from this perspective is a restated cultural narratives, and legislation that reaches far beyond the

Having first summarized the slaves may be converted into Jewish biblical tradition. I will show how rabbinic slave law remain closely bound show how the at times stark in best explained not as biblical hermeneutics. I will argue that in the manuscripts are reading themselves through the language of Scripture. In other words, a fundamentally insider model underscored by its largely exegetical lines rabbinic culture more in response than to the interpretive cues of the mirroring function of the law: for the discourses that are largely exegetical only when refracted against the law the law is written.

This chapter will take a brief look I will mark out the categories of tannaitic reader and ask how porous from slave. I will then turn to the terms, in what ways they remain in what ways they respond to the complexities of both poles). The final section of the chapter, in demonstrate that the aporiae in better filled if rabbinic manumission text. Tannaitic slave law reflects bis for a Judaism with the slave possessed by Rome, a desire for successful and powerful neighbors

Jewish Manumission

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pus must be read as a product of hermeneutical approaches to divergent legal traditions that are simultaneously political and theological discourses arising in the context of and in response to the Roman Empire in which the rabbis lived and worked.¹¹ As I hope has become clear, law seen from this perspective is a mode of commentary on more explicitly stated cultural narratives, and legal discourse a mode of cultural negotiation that reaches far beyond the details of its stated object.

Having first summarized the position that assumes or argues that slaves may be converted into Jews upon manumission, I will turn to the biblical tradition. I will show how the language and categories of rabbinic slave law remain closely bound to biblical slave laws, but I will then show how the at times stark innovation in the face of tradition can be best explained not as biblical hermeneutics but more as cultural hermeneutics. I will argue that in the manumission of Gentile slaves, the rabbis are reading themselves through Roman cultural lenses yet still using the language of Scripture. In other words, while rabbinic literature is always a fundamentally insider mode of inquiry (its inward-looking status underscored by its largely exegetical genres), tannaitic slave law imagines rabbinic culture more in relation to Roman trajectories of power than to the interpretive cues of the biblical material. My focus is on this mirroring function of the law: formally the law operates within internal discourses that are largely exegetical, yet the big picture makes sense only when refracted against the larger imperial culture in whose context the law is written.

This chapter will take a brief look at the biblical treatment of slavery. I will mark out the categories that become most resonant with the tannaitic reader and ask how porous the boundary is that separates Israelite from slave. I will then turn to the tannaitic texts, asking, in heuristic terms, in what ways they remain in keeping with exegetical concerns and in what ways they respond to historical forces (granting of course the complexities of both poles). This will be a question that underlies the final section of the chapter, in which I turn to the Roman law. I will demonstrate that the aporiae in the rabbinic exegetical etymologies are better filled if rabbinic manumission is seen in a Roman conceptual context. Tannaitic slave law reflects a larger yearning on the part of the rabbis for a Judaism with the sort of magnetism and influence already possessed by Rome, a desire given contour perhaps by the rabbis' successful and powerful neighbors and masters.

Jewish Manumission

Let me begin by sketching a fictional scenario: A rich Jewish businessman buys a Gentile slave, one Plonius, at market. He is one of only a few

slaves owned by the Jew¹² and he becomes a member of his household. If Plonius comes uncircumcised, the master circumcises his new slave (Gn 17.12–13)¹³ and has him ritually immersed.¹⁴ Plonius, now circumcised, joins the family at Passover,¹⁵ he rests on the Sabbath (Ex 20.10, 23.12), he keeps Jewish holidays (Dt 16.11–14), he knows the prayers.¹⁶ In order to do his job, he must learn to negotiate the stringent and complicated laws of ritual purity.¹⁷ One day slave and master arrive at the synagogue for evening services to find the congregation a man short. There are not enough Jewish men to complete the *minyan*, the quorum of ten required for public prayer. The master turns and, by his word, frees his slave, who becomes a full Jew,¹⁸ completing the *minyan* and permitting the evening prayer to proceed.¹⁹

This collage, culled from rabbinic sources and presumptions drawn largely but not exclusively from biblical sources, presents a composite but nonetheless legally viable narrative in rabbinic terms. Plonius enters a “Canaanite” (or Gentile)²⁰ and exits a Jew—a Jew absorbed in prayer no less. Why should a slave become a Jew? (Why should he want to?) Why does rabbinic culture want to incorporate slaves into itself? To what extent are tannaitic ideals of cultural permeability readable from biblical sources? The authority and model for this transformation are only partially found in the Hebrew Bible itself. Like all rabbinic literature, slave law partakes in an ongoing process of interpreting sacred texts. In this case, the rabbis seem to join an exegetical evolution that has already begun in the Bible.²¹ Still, the rabbinic construct of slavery/manumission may reveal more about current historical pressures, and about the rabbinic reader and *exegete of culture*, than the exigencies of biblical exegesis and interpretive tradition.

First, it is important to establish what sort of narrative emerges from the biblical sources. Slavery holds a highly symbolic place in biblical narrative and theology. The movement from slavery in Egypt to freedom at Sinai traces the Torah’s core redemptive narrative. Central to this is the notion of freedom embodied in this narrative—freedom is *freedom into a law* that is understood to be a pinnacle of human endeavor; it is a freedom to most fully obey that law, most completely become a member of that *nomos* and its community. Servitude at its worst restricts one’s ability to keep God’s commandments. In the epic vision of the Pentateuch, slavery is not merely the state of not being free or of being a thing (though both are true) but is qualified by a long religious tradition in which the term and state “slavery” have deep historical and religious resonances. In Rome, a Roman is precisely *not* a slave.²² Conversely, ever since the mythic moment when the God of Israel liberated Israel from her bondage in Egypt, slavery has been a vital element of the Jewish sacred narrative and normative religious identity. Although actual enslavement is

despised, one cannot properly always integrated—metaphoric. Therefore the dyad of slave and sacred narrative in which every Jew of Israel are servants/slaves (*‘avadai hem*) whom I brought forth to your God” (Lev 25.55). Freedom in a more desirable form, since Judaism connotes freedom that God grants Israel his commandments.”²⁴ It is clear that Judaism (or Israelite religion) is not a slave law and could thus be transferred to a slave law.

Indeed we find that the redemptive narrative influence on the Bible’s legal sources and redacted. Legal sources on slavery in Lev 11, Lev 25.39–55, and Dt 15.12–18 it is clear that the literary construction shaped the slave law, as Sara Japhet’s servant relationship holds true for every Israelite and his God. The redemption of Israel from Egypt.”²⁵ T 15.12–18; Dt 15.15 says, “Remember that you were slaves in Egypt, and the Lord your God redeemed you this thing [manumission of slaves] established here between the Israelite slavery and the legal allowance. The law answers by distinguishing between the making space for the liminal quality of Leviticus and Deuteronomy that the Israelite from foreign slaves²⁸ in an attempt to show sons of divine redemption seem to be distinct. This strict distinction must be maintained (promoted to *sekhir* or *toshav* in the law) having in some sense never lost its life as “your property” and in the end.

There is then a perceivable cultural teleology from manumission to a strict legal distinction between Israelite property). Foreign slaves are the same as the slave’s religious status, if any, and the manumission/conversion have made its way into the law. There is no obvious rule for the

despised, one cannot properly project the slave as other. The slave is always integrated—metaphorically and ritually—into the Jewish self. Therefore the dyad of slave and free is always at its essence a *dynamic*, a sacred narrative in which every Jew participates.²³ “For to me the people of Israel are servants/slaves (*‘avadim*), they are my servants/slaves (*‘avadai hem*) whom I brought forth out of the land of Egypt: I am the Lord your God” (Lev 25.55). Freedom is not slavery’s opposite but is its preferable form, since Judaism conceives freedom as slavery—to God. The freedom that God grants Israel is the opportunity to don the “yoke of his commandments.”²⁴ It is clear then that a movement from slavery to Judaism (or Israelite religion) is central to the biblical and Jewish experience and could thus be transferred easily to legal debates on contemporary slave law.

Indeed we find that the redemptive epic seems to have had a determinative influence on the Bible’s legal materials as they are both written and redacted. Legal sources on slavery/manumission appear in Ex 21.2–11, Lev 25.39–55, and Dt 15.12–18. From Lev 25.39–55 (esp. vv. 42, 55), it is clear that the literary construction of the Egyptian experience has shaped the slave law, as Sara Japhet summarizes, “for Israel the master-servant relationship holds true in one context only; between each and every Israelite and his God. The relationship is the result of the redemption of Israel from Egypt.”²⁵ This is also true, *mutatis mutandis*, of Dt 15.12–18; Dt 15.15 says, “Remember that you were a slave in the land of Egypt, and the Lord your God redeemed you; for this reason I command you this thing [manumission of Hebrew slaves] today.”²⁶ There is a tension established here between the clear theological taboo against Israelite slavery and the legal allowance for it. In the face of this contradiction the law answers by distinguishing Israelite from alien slaves, thereby making space for the liminal quasi-slave status of the Israelite.²⁷ In both Leviticus and Deuteronomy the Bible explicitly distinguishes Israelite from foreign slaves²⁸ in an attempt to limit Israelite servitude.²⁹ The lessons of divine redemption seem to have been applied only to coreligionists. This strict distinction means that manumitted Hebrew slaves (promoted to *sekhir* or *toshav* in Lev 25.40) return to their former status, having in some sense never lost it, while foreign slaves are enslaved for life as “your property” and inheritance (Lev 25.44–46).

There is then a perceivable conceptual tension between the theological teleology from manumission to Jewishness, and the more ethnocentric legal distinction between Israelite and foreign slaves (person and property). Foreign slaves are the focus of this essay.³⁰ What was the alien slave’s religious status, if any, and how might a notion of his manumission/conversion have made its way into the tannaitic legal corpus? While there is no obvious rule for the manumission of Gentile slaves in the

Bible, there is a notion of their acculturation. Saul Olyan, following Orlando Patterson's comparative work on slavery, says that there must have been some ritual by which the "naturally alienated" foreign slave would have been initiated into his new society, albeit in a marginal mode.³¹ The only such rite clearly recorded was the slave's mandatory circumcision (Gn 17.10–14; Ex 12.43–49), though boring the ear may well have been part of this process as well, Olyan claims.³² Once initiated into the Israelite household, the foreign male slave shares in many of the most exalted privileges of the Israelite community, including partaking of the Passover sacrifice and even the holiest priestly food (Lev 22.10–13). Yet Olyan argues that in the biblical world this high status is illusory, masking the slave's true status as mere shadow of his master and "underscor[ing] the slave's debasement and his lack of an independent social existence."³³ As mere agent for his master, even the ritually indoctrinated foreign slave would have been no closer to enfranchisement than he was the day of his enslavement.³⁴

Despite the intricate ideological differences marking the biblical source texts, the rabbinic project sees the divergent biblical legal corpora as part of a single seamless revelation, and so we must see them as such. The Bible is telegraphic. Discrepancies between the sources are opportunities for the rabbis to "show their cards" as it were. They are the blank screen calling for projection. What are the most attractive gaps in the biblical slave law? As I turn to the tannaitic treatment of manumission, I want to highlight a few areas of biblical slave law from which the rabbinic exegetes swerve.³⁵ First is the highly theologized aspect of slavery in the redacted presentation of biblical slave laws. The derivation/justification of manumission from the redemption of Israel from Egyptian servitude is largely missing from the surface of the rabbinic treatment of slavery and redemption. That is, except in rare instances (see below), the link between slave-holding and historical experience is not made in the rabbinic laws.³⁶ The second obvious point of divergence is the fact that the manumission of Gentile slaves is part of rabbinic law *when it had no obvious place in the Bible*. Though at times challenged, tannaitic law made space for the legal manumission of Gentile slaves, and moreover, the freed Gentile slave was often presumed to be converted.³⁷ Finally, the distinction between foreign and native slaves so central to biblical slave laws is variously sidelined by the rabbis. Why these changes?

Despite the general lack of aggadic or narrative reiteration of this motif in the tannaitic slave laws (or tannaitic law in general, for that matter), on rare occasion the rabbinic midrash does explicitly echo the double notion of the slave/slave to God. In Exodus 21.5–6, the biblical law stipulates that a Hebrew slave who wants to extend his servitude beyond six years must declare that he loves his master, then stand beside a door-

post and have his ear bored with a flint. The midrash asks why he must stand against

Why should a door and doorpost be bored? God said, "The door and doorposts [and space between] the lintel and doorposts [and space between] by splashing blood on their doorposts, the children of Israel are slaves" (Lev 22.10). I brought them forth from slavery and they acquired for himself a human master.

In giving up his freedom, the slave must serve God. Since his master cannot serve God, not, by definition, worship at sanctified places.⁴⁰ As such, the slave betrays God.

In this passage the free Jew is contrasted with the slave in Jewish history. One then might expect to find this in rabbinic literature. Indeed, it is. Yet rabbinic texts preserve distinctions between slaves.⁴¹ There is a strain in tannaitic law here, in which the rabbis prohibit the holding of Gentile slaves—prohibiting their sale or maintaining a wide gulf between them and Jews, not.⁴³ Manumission laws preserve the essence of an ideological divide.

The idea of the slave self is central to rabbinic thinking than in the tannaitic period. This shift away from Scribner's holding in the centuries intertestamental and Roman practices; (2) the slave without legal pedigree or past history, the notion of ritual inclusion and exclusion in the light of the previous two (his status).

Actual slave-holding practices in the tannaim would certainly reflect these concepts, even if their ultimate reality. There is evidence suggesting that Jews did not honor the biblical law with native slaves in practice. Philo of Alexandria differently from other slaves. *De Specialibus Legibus* 2.79–80. He urges them to conform their slave-holding practices to the law. He does not. He urges them to k

post and have his ear bored with an awl. A *baraita* from *bKidushin* (22b³⁸) asks why he must stand against a doorframe:

Why should a door and doorpost be singled out from all the utensils in a house? God said, "The door and doorpost were my witnesses in Egypt that I passed over the lintel and doorposts [and spared the Israelites who marked their presence by splashing blood on their doorposts]. Moreover, I have said, "For unto me the children of Israel are slaves" (Lev 25.55) and not slaves unto slaves, and I brought them forth from slavery into freedom, yet this man has gone and acquired for himself a human master!³⁹

In giving up his freedom, the slave here chooses to limit his ability to serve God. Since his master controls his time and his movement he cannot, by definition, worship as directed in the proper times and in the sanctioned places.⁴⁰ As such, slavery inverts the sacred narrative and betrays God.

In this passage the free Jew, then, is a product not of nature but of history. One then might expect a highly sympathetic treatment of slaves in rabbinic literature. Indeed such a strain exists and is my focus here. Yet rabbinic texts preserve divergent positions on the manumission of slaves.⁴¹ There is a strain in tannaitic slave law, which I will not explore here, in which the rabbis promulgate a restrictive norm concerning Gentile slaves—prohibiting their manumission outright, as does Akiba,⁴² or maintaining a wide gulf between Gentile and Jew, whether freed or not.⁴³ Manumission laws preserve a live legal debate that was at its essence an ideological divide with a wider horizon.

The idea of the slave self in legal terms is categorically different in rabbinic thinking than in the Bible. Three aspects seem to me relevant to this shift away from Scripture: (1) the influence of actual slave-holding in the centuries intervening, including the influences of Greek and Roman practices; (2) the rabbinic notion of the slave self as a being without legal pedigree or past; and (3) the transformation of the biblical notion of ritual inclusion and indoctrination of the household slave in light of the previous two (history and pedigree).

Actual slave-holding practices in the centuries between the Bible and the tannaim would certainly have influenced rabbinic categories and concepts, even if their ultimate legal creations were not rooted in social reality. There is evidence suggesting that during the Second Temple era Jews did not honor the biblical distinction between Israelite and Canaanite slaves in practice. Philo tells us that Jewish slaves were treated no differently from other slaves, as evidenced in his discussion of Dt 15 in *De Specialibus Legibus* 2.79–81,⁴⁴ where Philo adjures his fellow Jews to conform their slave-holding habits to biblical norms, implying that they do not. He urges them to keep only Hebrew slaves, then admits that

since his fellow Jews do seem to keep Jews as slaves, they should treat them as laborers on short-term contract, as the Bible instructs, and not as any other slave over whom the Jew would have "the rights of absolute power."⁴⁵

So while rabbinic legal categories are often derived exegetically, and while tannaitic law is rarely an unmediated reflection of social reality (and this is true in the case of slavery), we cannot yet say that tannaitic law developed in a vacuum. Even the most ideological is historical, but historical in the sense that cultural currents can permeate the rabbinic worldview and exegetical project, even without making pragmatic claims on its outcomes.

Another development in the rabbinic notion of the slave self is the making explicit of the slave's lack of legal pedigree. A Gentile slave would be legal chattel having few if any rights⁴⁶ or property or history or kin. "Once someone becomes a bondman, slavery constitutes his defining feature."⁴⁷ *bBaba Kama* 15a says explicitly of a slave "he has no legal pedigree." We saw this presumed by Saul Olyan of the biblical material above, but in the case of Gentile slaves (the Israelite was presumed to have maintained his identity as a kinsman). However, in instances where one might expect a clear distinction, the Mishnah sees the legal ramifications and logic of lost pedigree (*yihus*) as overshadowing the distinction between Hebrew and Canaanite ethnicity.⁴⁸ The slave was given a legal status void of history, he became a clean slate and a sort of chattel that possessed limited volition.⁴⁹

Even if we bracket this possibility and focus on the case of the Canaanite (Gentile) slave, the transformational effect of slavery was not lost on its victims, who are depicted as attempting to manipulate it to their advantage. Several texts express a fear that the slave will use conversion as a pretext to gain freedom.⁵⁰ In a mishnah in *Kidushin* (3.13) slavery acts as a cultural detergent powerful enough to wash away the stigma of a Jewish bastard's status:

Rabbi Tarfon said, "It is possible to purify a *mamzer* [loosely: "bastard"] from his defective ancestry. How so? Take the case of a *mamzer* who marries a slave woman, their offspring is a slave. If the offspring is freed, the son becomes a freedman."

In normal circumstances, the offspring of a *mamzer* is himself a *mamzer*. Here, even for Israelites, slavery effaces one's past and so makes space for the transformation of the *mamzer's* social and legal status.⁵¹ The fact of slavery, and its ability to purge and reconstitute the slave-self, is determinative of one's present and future social relations and trumps past relationships and obligations.⁵² As I will show below, this is in part likely

reflective of history of slave-laborers and their neighbors.

One key area in which biblical law reflects the history of slavery is in the context of the slave's integration into the household. The acquisition of a household slave made him less of an alien. The tannaitic slave may well have furthered this process. The Bible expected that the slave would live the life of the household, and his integration into the religious status of the household blurred the slave's foreign origin. He was *outside* in the cultural mix. He was a period of integration that was not complete. Every slave is imagined to have a period of integration that was not complete (not incidentally the two steps of conversion, learned *de facto* a great deal of the law. In these days, it seems it would be easier to learn once manumitted.⁵⁵ In this way, the slave above (bGit 38b). Eliezer, it is said, and, needing a tenth, freed him. The urgency, no further education needed. That the slave is a member of the household, only slightly modified to turn him into an agent into a functioning member of the household. The tannaitic slave functionally assume that the slave is a member of the household. The commandments" (bBK 88a). The slave's circumcision and immersion.⁵⁸ The language echoes the gloss of the Deuteronomic reworking. The slave's enfranchisement.

The notions elaborated above suggest that he is integrated into the household. The result in a soft distinction in the household. An implied cultural education that is reflected in the legal status around the slave. Tannaitic law and comparison of proselytism and conversion encouraged the acquisition of a slave "under the wings of Shekhinah." The legally parallel, virtually identical. The texts often forge a metaphorical slave as has been discussed by Ca. "The roles of slaves and their status, and the boundaries of the household."

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reflective of history of slave-holding and the practices of the rabbis' neighbors.

One key area in which biblical ideas are modified for the rabbinic context is that of the slave's ritual indoctrination. The functional education of a household slave in Jewish religious practice would have made him less of an alien. The ritual conformity demanded of the Gentile slave may well have further complicated his polemical "othering." The Bible expected that the slave would be integrated into the religious life of the household, and his ritual purity would have been crucial to the religious status of the household. This integration would have blurred the slave's foreign origins, made it harder to limit him to the *outside* in the cultural mix. His time of enslavement may have served as a period of integration that transcended mere utility.⁵³ Since by law every slave is imagined to have been circumcised and ritually immersed (not incidentally the two steps required of proselytes⁵⁴) and to have learned de facto a great deal of law and observed both Sabbath and holy days, it seems it would be easy for him to step into the master's culture once manumitted.⁵⁵ In this way recall the story of R. Eliezer, alluded to above (bGit 38b). Eliezer, it seems, brought his slave with him to prayer and, needing a tenth, freed him. The slave steps seamlessly into the liturgy, no further education necessary.⁵⁶ In this model, the biblical notion that the slave is a member of the household for ritual reasons is here only slightly modified to turn the ritually orthodox slave from "tool" or agent into a functioning coreligionist. Indeed, many laws for slaves functionally assume that the (Gentile) slave is Jewish, a "brother in the commandments" (bBK 88a; bSan 86a)⁵⁷ from the moment of his circumcision and immersion.⁵⁸ It is perhaps not an accident that this language echoes the gloss of Israelite slave as "your brother" in the Deuteronomic reworking. Manumission, then, is just the last step to enfranchisement.

The notions elaborated above, namely, that a slave has no past and that he is integrated into religious life of the family and community, result in a soft distinction in rabbinic texts between alien and native.⁵⁹ An implied cultural education is realized in the person of the freedman, which is reflected in the legal and metaphorical matrices that accrete around the slave. Tannaitic law shows an insistent and frequent pairing and comparison of proselyte to freedman.⁶⁰ (Amoraic sources explicitly encouraged the acquisition of Gentile slaves as a way to bring them "under the wings of Shekhinah."⁶¹) Not only are slaves and proselytes legally parallel, virtually identical in all but social status, but the rabbinic texts often forge a metaphorical link between the student and the slave, as has been discussed by Catherine Hezser in regard to slaves of rabbis: "The roles of slaves and students are often overlapping in rabbinic literature, and the boundaries between the two types of hierarchically infe-

rior members of a rabbi's household are sometimes blurred."⁶² In bKet 96a "R. Joshua b. Levi ruled: All manner of service that a slave must render to his master, a student must render to his teacher." This analogy can be read to reflect backward as well; not only must the student be like a slave—loyal, subservient, diligent, and attentive—but the slave then is like a student, absorbing the ways of his wise, stern, but fair master.⁶³

The idea of slavery as acculturation is laced in other ways throughout tannaitic legislation—there are strict rules, for example: "One who sells his slave to a Gentile or outside of the land, he goes out a free man" (mGit 4.6). The law privileges the slave's allegiance to the *geographies of Judaism* over his bondage. In Sifra, *Behar* 8, the reason for the prohibition against selling a Jewish slave to a Gentile is explicit: "Do not leave him to be mixed up beyond recognition (among the Gentiles)." This terse comment seems simple enough, but its tone and reasoning point less to a fear of Roman brutality or the slave's being *coerced* to worship idols; instead we find anxiety that he will assimilate! There is revealed here a strong sense that the experience of being a slave does not reinforce difference; rather it moves inevitably toward integration.

Two models alien to the biblical text emerge in rabbinic slave laws: the collective notion of undifferentiated slave, and the fact not only of the manumission of alien slaves but their conversion. Each can, I will argue, be traced to the influence of Roman slave law. I do not argue for a direct legal borrowing and application, for I do not find one. However, I trace a larger appropriation, explicating rabbinic law as text of cultural self-presentation that has digested and interpreted its historical context on a grand scale. The law is exegetical, not only of its own scriptural past but it parlays its own parochial legal concerns to law etched on larger horizons. The shifts in rabbinic slave law not only mirror and co-opt Roman slave-holding praxis but communicate a message that far supersedes its manifest details. But first let me back up: why Roman?

Roman laws concerning slaves and manumission were likely well known by Jews in this period.⁶⁴ Many Jews were enslaved by Romans. Josephus estimates that 97,000 had been sold into Roman slavery following the Jewish War alone!⁶⁵ Even allowing for his customary inflation, this is a massive number. Some of these who were eventually manumitted would have brought home with them intimate knowledge of the life and prospects of the Roman slave.⁶⁶ In addition, Jews placed a high premium on the redemption of their brethren who were enslaved to Gentiles, implying that they must have known enough Roman law in any case to know what would secure the release of a fellow Jew.⁶⁷ Moreover, while explicit terminology from Roman manumission law only appears in amoraic sources,⁶⁸ Jews were functionally conversant with much Roman civil law in the tannaitic era (even before 212 C.E.) and regularly con-

sulted Roman courts in civil matters of "international" concern—perhaps a conflict of laws and legal reasoning. This was a place for rabbinic reflection on the contagion.

In the Roman imagination (contagion) fest, reinforces, perfects, and sustains. In Jewish imagination the Jew is not. Jewish and Roman laws share in communal parity between the slave and the free restored at manumission.⁷¹ What influence run between the Bible and the enfranchisement of alien slaves by Roman influence.

The Roman Case

The enslavement and manumission of slaves follows a narrative arc very similar to that of a freedman. The freedman and slave were likely originally at market, born into servitude, and adopted into slavery. Having been a "happy" slave⁷³ may well have been a goal. "happy," was a popular slave. There he became part of religious practices,⁷⁶ imitating his Greek. His manumission was a controlled affair initiated by a master, not a slave, in his will.⁸⁰ Now free, he was a legal subject. Significantly, he was not a citizen.⁸¹ Felix does not revert to his Jewish provincial (this past history of his enslavement). He is now a Roman citizen, and eligible for Roman citizenship.

At the beginning of the first century, the Roman law of persons. The law of persons is this: all slaves were property over which the master had absolute power. Slavery is one half of perhaps a whole, of being, and even a cursory glance into the huge space inhabited by slaves in Roman society.⁸⁶ This distinguishes the Roman narrative. Keith Bradley

sulted Roman courts in civil matters.⁶⁹ Slavery, in sum, is a natural site of "international" concern—peppered with clashing jurisdictions, with conflict of laws and legal reasoning. For all these reasons, it is a likely place for rabbinic reflection on issues of contact, accommodation, and contagion.

In the Roman imagination (on this, more below), *legal* freedom manifests, reinforces, perfects, and safeguards man's *natural* freedom. In the Jewish imagination the Jew is not free but only ever freed.⁷⁰ Yet Roman and Jewish laws share in common a mythology of elemental or foundational parity between the slave and the master that can and should be restored at manumission.⁷¹ While many years and many streams of influence run between the Bible and the tannaim, the big picture of enfranchisement of alien slaves is in the end most plausibly explained by Roman influence.

The Roman Case

The enslavement and manumission of Gentile slaves owned by Jews follows a narrative arc very similar to that of the Roman slave.⁷² Roman freedmen were likely originally household slaves who had been bought at market, born into servitude, or perhaps even found exposed as infants and adopted into slavery. Having been acquired by a Roman citizen, the slave⁷³ may well have been given a name easy on Roman ears (Felix, "happy," was a popular slave name⁷⁴) and put to work as a domestic slave.⁷⁵ There he became part of his master's household, adopting his religious practices,⁷⁶ imitating the local dress,⁷⁷ learning Latin and perfecting his Greek.⁷⁸ His manumission would have been an official, court-controlled affair initiated by a grateful or ostentatious⁷⁹ master, or commonly, in his will.⁸⁰ Now free, "Felix" is transformed from legal object to legal subject. Significantly, *manumission does not bring about repatriation*.⁸¹ Felix does not revert to his previous status as Syrian or Gallic or Judean provincial (this past has been effectively effaced at the moment of his enslavement). He is now a freedman and Roman citizen, subject to Roman laws,⁸² and eligible for a citizen's privileges.⁸³

At the beginning of the first section of Gaius's *Institutes*, he introduces the Roman law of persons. There he states, "The main classification of the law of persons is this: all men are either free or slave."⁸⁴ Roman slaves were property over which their masters had "absolute power."⁸⁵ Slavery is one half of perhaps the most essential Roman legal category of being, and even a cursory perusal of Roman literature bears out the huge space inhabited by slaves in the social and literary imagination of Roman society.⁸⁶ This distinguishes it sharply from the Jewish foundation narrative. Keith Bradley writes, "Slavery for the Romans was not a

peculiar institution but *the standard* by which all else in society was measured and judged: it was a way of thinking about society and social categorization."⁸⁷ At his fullest, a Roman was a free man, *paterfamilias*, citizen, while a slave, according to Justinian's *Institutes*, "has no standing at all."⁸⁸ According to Gaius, enslavement was among the most extreme losses of status, analogous to or even worse perhaps than death or banishment, and was a form of capital punishment, categorized alongside drowning, beheading and other more obvious "rubblings out."⁸⁹

That being said, enslavement was perceived to be contrary to nature; "By the law of nature all men were initially born free."⁹⁰ If a slave is a human being, naturally free, how does one justify his enslavement? The *Institutes* isolate war as the origin of institutional slavery. That is, slavery is not natural, but is a man-made phenomenon; it is "contrary to the law of nature."⁹¹ If slavery is unnatural it follows that slaves possess some spark of freedom. Furthermore, every Roman soldier knows that it takes but one bad day in battle to set him too on the auction block.⁹² This notion of the human nature of the slave underwrites Roman laws and practices of manumission. That a slave ought to be acculturated should not be presumed, however, and different cultures preserve divergent notions of their own permeability. The Roman case "was unique in the Graeco-Roman world"⁹³ and is especially striking when contrasted with possible alternative conceptions—especially the neighboring Greeks, epitomized by Aristotle, for whom the slave is inherently servile, by *nature* unfit for citizenship.⁹⁴ It is hard to imagine a similarly sanctioned way to become Greek—it sounds as odd as a nineteenth-century American slaveholder imagining that his own slave, even if freed, could ever become *like him*. Still, Roman slaves of vastly disparate ethnic origins regularly became Romans.

Roman slave laws are at once polarizing and permeable. A slave's life was not his own, and he had "no natural right [even] to food, drink, or sex."⁹⁵ Beyond his physical enslavement, a slave also lost his past. "Legally speaking, he could have no relatives."⁹⁶ He had no legal history, no story. Ethnicity, tradition, ancestors, wife, progeny, and heirs were all denied him.⁹⁷ Each was amputated by his status. Patterson terms slavery "social death."⁹⁸

From this "social death," Sohm says that "manumission is a kind of new birth."⁹⁹ Manumission, especially of urban slaves or those who lived in the household of their owners, was common and easy to effect.¹⁰⁰ Gaius writes: "It is such an everyday matter that manumissions are performed even en route from one place to another, for instance when the Praetor or Proconsul is passing by on his way to the baths or the theatre."¹⁰¹ Dupont notes that

[F]reedmen were children of Rome of reproduction not unlike cultural identity. The *fides* of the slave and his future with the master is recorded in the *testamentum* and his shadow, the emancipated slave,

A legal progression through status spans and connects the cultural identity of the freedman.

Already within and from the Roman state trace an emergent narrative: the freedman's identity through his transformation from slave to free person—the culmination of the Roman slave is granted the status of a free person—to the yoke of Roman freedom (5.3). Through manumission, or *manumissio*, "all peoples" subject to *ius gentium* become Roman—man—in so doing he has in fact entered the Roman state. Yet it is the law of nature that governs Rome.¹⁰³ Slavery and freedom are not the standard of subjugation and univocal law. Cases: Roman Law.¹⁰⁵

Three important elements emerge from the polarity slave/free is not only present in the Jewish narrative. (2) The definition of a slave in a law deemed both elective and aspirational assumptions and aspirations.¹⁰⁶ The natural confidence and a faith that the freedman's other prior allegiances to blood and family imply that Rome, by the fact of his manumission, preferred world of the freedman.

Conclusion

Each of the elements I identified in the Jewish material as well; the slave and free is permeable, and the manumission is inscribed inevitable effacement that marks the slave's assumption that the experience of restricted, will result in either a new identity or his ontological transformation. The teleology is surprisingly self-contained.

I have argued that rabbinic

[F]reedmen were children of Roman culture . . . They emerged from a system of reproduction not unlike cultural "cloning." There was a direct link between the *fides* of the slave and his future identity as a citizen . . . This identification with the master is recorded in the emancipation itself: having been his double and his shadow, the emancipated slave would bear his master's name.¹⁰²

A legal progression through stages from *res* to *persona* (thing to person) spans and connects the cultural poles of slave and free.

Already within and from these legal realms and categories we can trace an emergent narrative: the marginal foreigner is purged of his past identity through his transformation into slave-thing, and from there the state proffers its beneficent metamorphosis through the law into Roman free person—the culmination of this matriculation. Once manumitted, the Roman slave is granted the chance, or better, the *privilege*, of bowing to the yoke of Roman freedom, *ius civile*, as citizen (*G. Inst.* 11; *J. Inst.* 5.3). Through manumission, our Felix is transformed from being one of "all peoples" subject to *ius gentium* to being a particularly Roman freedman—in so doing he has in fact returned to his "primordial" *natural* state. Yet it is the law of nature refined—improved by the civil glory of Rome.¹⁰³ Slavery and freedom make a pair that echoes the imperial standard of subjugation and universalism.¹⁰⁴ The (triumphal) goal in both cases: Roman Law.¹⁰⁵

Three important elements emerge from the Roman material. (1) The polarity slave/free is not only permeable but reveals in fact an evolutionist narrative. (2) The definition of that enfranchisement is membership in a law deemed both elect and normative—striated with universalist assumptions and aspirations.¹⁰⁶ (3) Third, there is a strong sense of cultural confidence and a faith that patronage will supplant patriotism and other prior allegiances to blood or country.¹⁰⁷ The manumission laws imply that Rome, by the fact of her existence, *must, of course*, become the preferred world of the freedman.

Conclusion

Each of the elements I identified in the Roman material is present in the Jewish material as well; that is, the border dividing Gentile and Jew, slave and free is permeable, and their relationship is dynamic; enfranchisement is inscribed inevitably in the act of historical and genealogical effacement that marks the slave; and, finally, the manumission laws assume that the experience of inhabiting a Jewish life, however restricted, will result in either the slave's desire to adopt Judaism or in his ontological transformation into a Jew. In either case, the conversion teleology is surprisingly self-confident.

I have argued that rabbinic law is being fashioned by larger cultural

forces at work—Roman law and Roman idealized self-perception—and the rabbis are reshaping their own evolving tradition in a Roman model. The exegetical history of one legal complex shows an evolution of concepts and ideas. Slave laws do not present a static picture but rather a dynamic ongoing development, which in the tannaitic era was neither fixed nor at all times monovocal in its own positions. That being said, we can clearly identify one tradition that treats the slave as nascent convert. This idea grows from multiple roots, many aspects drawn from within Jewish and biblical tradition. But what I hoped to show is that the unique telos of acculturation, given that it is not biblical (nor Greek), reflects in fact a Roman cultural model. Roman culture creates the hermeneutical rubric in which biblical terms are translated. In adopting it, the rabbis have built on their own tradition and added Roman conceptions, folding them into the slave law in such a way as to assert an exegesis of Jewish Scripture *cum* culture that is not immediately apparent. Roman cultural confidence is donned by the rabbis and it displaces other schemes as a hermeneutical model.

In the Roman case, that slaves matriculate to citizenship mirrors Roman imperialism and the so-far successful “Romanizing” of the world. The empire not only forced all non-Romans to kneel and serve her (war, expansion, and slavery make up a tightly bound matrix) but then absorbed region after region into herself, inscribing her “colonies” with theaters, roads, languages, commerce, soldiers, and citizens.¹⁰⁸ The ideal of slavery as path to Roman citizenship nicely echoes this imperial narrative. The slave is first subject to Rome, then its child, his old country having been overrun and lost in the process. When the same narrative appears in the Jewish material the disanalogies between Rome and rabbinic Judaism stand out. The tannaim have no empire; their law is not normative among second- and third-century Jews. Therefore, the cultural confidence implicit in this strand of slave law is especially bold, even defiant. The assumed absorption of the slave-convert into the idealized law of Torah runs alongside and counter to the law of Rome that has in fact trumped Jewish jurisdiction. In the light of the relatively small size of the rabbinic movement, the great devastations of population in the wake of the two wars against Rome, and the subsequent enslavement of thousands of Jews, one voice in rabbinic Judaism insists on a law in which not only is the rabbi the master of a Gentile but the slave is *his* “cultural clone,” aspiring to *his* God, *his* law, *his* piety, and *his* mercy.

Scattered through the slave laws are images of the slave who is a student of Jewish observance and a proselyte in the making. The slave law, like the path through the wilderness to Mount Sinai, channels the slave to the law itself.¹⁰⁹ And like the Roman freedman, the Gentile slave of a

Jew has the chance to be liberated into the Roman realm—the place of the fully Jewish citizen. Roman citizenship, opens to the confidence in its superiority and its proffers defines a world to which the tannaitic literature interprets the biblical institution of Roman slavery, to envision a religion with its authoritative source narrative

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Jew has the chance to be liberated into the culture's highest most ideal realm—the place of the fully Jewish male, under the law. Torah, like Roman citizenship, opens to these slave-converts with a profound confidence in its superiority and its universal appeal.¹¹⁰ The divine law it proffers defines a world to which all men must aspire.¹¹¹ The legal literature interprets the biblical institution of slavery through the lens of Roman slavery, to envision a religion that is powerful, desirable, true to its authoritative source narrative, and growing.